Government of Bombay
Legal Department

The Bombay Code

Volume II

PART I

Containing

The Acts passed by the Bombay Legislative Council from 1922 to 1936 and by the Bombay Legislature from 1937 to 1949; the Regulations made by the Governor of Bombay under sub-section (*2*) of section 92 of the Government of India Act, 1935; and a Chronological Table of Acts with an Index and a General Index.

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PART IV.—ACTS PASSED BY THE BOMBAY LEGISLATIVE COUNCIL.

(1922—1936)

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette*.	Page.
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1923	I	The Bombay Entertainments Duty Act, 1923.	Amended by Bom. Act 6 of 1925; Amended by Bom. Act, 13 of 1931; Amended by Bom. Act 2 of 1932, read with Bom. Act 23 of 1948 .. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 13 of 1943.	26th November 1925 3rd December 1931. 30th March 1932. 30th March 1948. .. 28th December 1943	1435

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1923	I	The Bombay Entertainments Duty Act, 1923—*contd.*	Amended by Bom. Act 17 of 1945.	15th August 1945.	
			Amended by Bom. Act 21 of 1948.	29th March 1948.	
			Amended by Bom. Act 37 of 1948.	23rd April 1948.	
1923	VI	The Bombay Local Boards Act, 1923.	Amended by Bom. Act 2 of 1925;	3rd October 1925 ...	1443
			Amended by Bom. Act 13 of 1925;	27th January 1926.	
			Amended by Bom. Act 7 of 1926;	21st August 1926.	
			Amended by Bom. Act 10 of 1927;	3rd November 1927.	
			Amended by Bom. Act 5 of 1928;	26th September 1928.	
			Amended by Bom. Act 4 of 1930;	28th April 1930.	
			Amended by Bom. Act 25 of 1930;	17th September 1930.	
			Amended by Bom. Act 10 of 1931;	17th September 1931.	
			Amended by Bom. Act 22 of 1931;	3rd December 1931.	
			Amended by Bom. Act 23 of 1931;	3rd December 1931.	
			Amended by Bom. Act 5 of 1932;	28th October 1932.	
			Amended by Bom. Act 15 of 1932;	1st December 1932.	
			Amended by Bom. Act 16 of 1933;	14th October 1933.	
			Amended by Bom. Act 8 of 1934;	8th October 1934.	
			Amended by Bom. Act 14 of 1934;	10th November 1934.	
			Amended by Bom. Act 6 of 1935;	18th April 1934.	
			Amended by Bom. Act 13 of 1935;	12th September 1935.	
			Amended by Bom. Act 16 of 1935;	17th September 1935.	
			Amended by Bom. Act 30 of 1935;	20th January 1936.	
			Amended by Bom. Act 34 of 1935;	6th February 1936.	
			Amended by Bom. Act 14 of 1936;	26th November 1936.	
			Amended by Bom. Act 18 of 1936;	3rd December 1936.	
			Amended by Bom. Act 24 of 1936;	22nd January 1937.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1923	VI	The Bombay Local Boards Act, 1923 —*contd.*	Amended by Bom. Act 1 of 1938.	28th January 1938.	
			Amended by Bom. Act 23 of 1938.	22nd December 1938.	
			Amended by Bom. Act 23 of 1939.	2nd December 1939.	
			Amended by Bom. Act 3 of 1940.	28th March 1940.	
			Amended by Bom. Act 17 of 1945.	15th August 1945.	
			Amended by Bom. Act 21 of 1945.	10th January 1946.	
			Amended by Bom. Act 41 of 1947.	8th December 1947.	
			Amended by Bom. Act 19 of 1948.	24th March 1948.	
			Amended by Bom. Act 10 of 1949.	19th April 1949.	
1923	XI	The Bombay Prevention of Prostitution Act, 1923.	Amended by Bom. Act 9 of 1926.	28th September 1926.	1513
			Amended by Bom. Act 9 of 1927.	1st November 1927.	
			Amended by Bom. Act 12 of 1930.	3rd September 1930.	
			Amended by Bom. Act 20 of 1931.	21st November 1931.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 7 of 1943.	6th May 1943.	
			Amended by Bom. Act 17 of 1945.	15th August 1945.	
			Amended by Bom. Act 26 of 1948.	30th March 1948.	
1924	IX	The Cattle-trespass (Amendment) Act, 1924.	...	...	1523

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1925	V	The Bombay Prevention of Adulteration Act, 1925.	Amended by Bom. Act 23 of 1935. Adapted and modified by the Adaptation of Indian Laws Order in Council.	5th October 1935 ..	1525
1925	VI	The Bombay Betting Tax Act, 1925.	Amended by Bom. Act 4 of 1931. Amended by Bom. Act 2 of 1932, Read with Bom. Act 23 of 1948, s. 14. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 11 of 1943.	23rd May 1931 .. 30th March 1932 .. 30th March 1948 .. 16th December 1943.	1537
1925	VII	The Bombay Co-operative Societies Act, 1925.	Amended by Bom. Act 8 of 1933. Amended by Bom. Act 22 of 1935. Amended by Bom. Act 8 of 1936. Amended by Bom. Act 17 of 1936. Amended by Bom. Act 24 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 29 of 1942. Amended by Bom. Act 16 of 1943. Amended by Bom. Act 28 of 1948. Amended by Bom. Act 14 of 1949.	19th September 1933. 5th October 1935. 7th May 1936. 30th November 1936. 22nd January 1937. 11th February 1943. 30th December 1943. 1st April 1948. 5th May 1949.	1543
1925	VIII	The Bombay Securities Contracts Control Act, 1925.	Amended by Bom. Act 9 of 1927. Adapted and modified by the Adaptation of Indian Laws Order in Council.	1st November 1927.	1581

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette*.	Page.
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1925	XVIII	The Bombay Municipal Boroughs Act, 1925.	Amended by Bom. Act 10 of 1926.	13th October 1926 .	1585
			Amended by Bom. Act 1 of 1927.	24th March 1927.	
			Amended by Bom. Act 12 of 1927.	14th December 1927.	
			Amended by Bom. Act 3 of 1930.	26th April 1930.	
			Amended by Bom. Act 4 of 1930.	28th April 1930.	
			Amended by Bom. Act 9 of 1930.	22nd May 1930.	
			Amended by Bom. Act 25 of 1930.	17th September 1930.	
			Amended by Bom. Act 12 of 1931.	26th September 1931.	
			Amended by Bom. Act 23 of 1931.	3rd December 1931.	
			Amended by Bom. Act 7 of 1932.	10th November 1932.	
			Amended by Bom. Act 15 of 1932.	1st December 1932.	
			Amended by Bom. Act 17 of 1933.	14th October 1933.	
			Amended by Bom. Act 14 of 1934.	10th November 1934.	
			Amended by Bom. Act 19 of 1935.	25th September 1935.	
			Amended by Bom. Act 14 of 1936.	26th November 1936.	
			Amended by Bom. Act 15 of 1936.	27th November 1936.	
			Amended by Bom. Act 24 of 1936.	22nd January 1937.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 9 of 1938.	12th May 1938.	
			Amended by Bom. Act 8 of 1939.	15th May 1939.	
			Amended by Bom. Act 20 of 1944.	30th December 1944.	
			Amended by Bom. Act 17 of 1945.	15th August 1945.	
			Amended by Bom. Act 22 of 1945.	17th January 1946.	
			Amended by Bom. Act 7 of 1946.	28th March 1946.	
			Amended by Bom. Act 1 of 1947.	18th March 1947.	
			Amended by Bom. Act 2 of 1947.	18th March 1947.	
			Amended by Bom. Act 41 of 1947.	8th December 1947.	
			Adapted by the India (Adaptation of Existing Indian Laws) Order, 1947.		

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
1	2	3	4	5	6
1926	XI	The Invalidation of Hindu Ceremonial Emoluments Act, 1926.	...	...	1709
1928	III	The Bombay Non-Agriculturists' Loans Act, 1928.	Amended by Bom. Act 11 of 1928. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 6 of 1949.	11th January 1929.. 11th April 1949.	1713
1928	IV	The Bombay University Act, 1928.	Amended by Bom. Act 12 of 1928. Amended by Bom. Act 13 of 1929. Amended by Bom. Act 15 of 1930. Amended by Bom. Act 20 of 1930. Amended by Bom. Act 10 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 11 of 1944. Amended by Bom. Act 49 of 1948.	11th January 1929.. 27th September 1929. 4th September 1930. 15th September 1930. 12th November 1936. 5th August 1944. 7th October 1948.	1717
1929	V	The Indian Registration (Bombay Amendment) Act, 1929.	Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.	...	1741
1929	VII	The Bombay Maternity Benefit Act, 1929.	Amended by Bom. Act 5 of 1934. Adapted and modified by the Adaptation of Indian Laws Order in Council.	9th May 1934	1745
1929	XVIII	The Bombay Borstal Schools Act, 1929.	Amended by Bom. Act 10 of 1932. Amended by Bom. Act 3 of 1934. Amended by Bom. Act 18 of 1935. Amended by Bom. Act 2 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 39 of 1948.	10th November 1932. 27th April 1934. 23rd September 1935. 12th March 1936. 1st May 1948.	1751

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette*.	Page.
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1930	VI	The Provincial Small Cause Courts (Bombay Amendment) Act, 1930.			1763
1930	XVII	The Indian Registration (Bombay Amendment) Act, 1930.	Adapted and modified by the Adaptation of Indian Laws Order in Council.		1767
1930	XXV	The Bombay Local Fund Audit Act, 1930.	Adapted and modified by the Adaptation of Indian Laws Order in Council; Amended by Bom. Act 12 of 1949.	22nd April 1949.	1771
1931	V	The Cattle-trespass (Bombay Amendment) Act, 1931.	.....	...	1779
1932	I	The Tobacco Duty (Town of Bombay) Amendment Act, 1932.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	...	1781
1932	II	The Bombay Finance Act, 1932.	Amended by Bom. Act 6 of 1932.	5th November 1932...	1783
			Amended by Bom. Act 1 of 1933.	23rd March 1933. ..	
			Amended by Bom. Act 1 of 1934.	31st March 1934. ..	
			Amended by Bom. Act 1 of 1935.	26th March 1935. ..	
			Amended by Bom. Act 3 of 1936.	12th March 1936. ..	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 7 of 1938.	26th March 1938. ..	
			Amended by Bom. Act 4 of 1939.	30th March 1939. ..	
			Amended by Bom. Act 17 of 1939.	11th September 1939.	
			Amended by Bom. Act 1 of 1940.	20th March 1940. ..	
			Amended by Bom. Act 4 of 1941.	27th March 1941. ..	

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette*.	Page.
1	2	3	4	5	6
1932	II	The Bombay Finance Act, 1932—*contd.*	Amended by Bom. Act 6 of 1942.	28th March 1942.	
			Amended by Bom. Act 3 of 1943.	30th March 1943.	
			Amended by Bom. Act 4 of 1944.	30th March 1944.	
			Amended by Bom. Act 4 of 1945.	29th March 1945.	
			Amended by Bom. Act 9 of 1946.	29th March 1946.	
			Amended by Bom. Act 3 of 1947.	31st March 1947.	
			Amended by Bom. Act 23 of 1948.	30th March 1948.	
			Amended by Bom. Act 2 of 1949.	31st March 1949.	
1932	IV	The Bombay Cotton Contracts Act, 1932.	Adapted and modified by the Adaptation of Indian Laws Order in Council.		1823
			Repealed in part by Bom. Act 17 of 1938.	27th October 1938.	
1932	IX	The Provincial Small Cause Courts (Bombay Amendment) Act, 1932.	.....	.....	1831
1932	XV	The Bombay Weights and Measures Act, 1932.	Amended by Bom. Act 9 of 1935.	20th May 1935 ...	1833
			Amended by Bom. Act 33 of 1935.	6th February 1936.	
			Amended by Bom. Act 22 of 1936.	21st December 1936.	
			Amended by Bom. Act 5 of 1937.		
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 1 of 1939.	15th March 1939.	
			Amended by Bom. Act 15 of 1947.	21st April 1947.	
			Amended by Bom. Act 56 of 1948.	22nd November 1948.	

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
1	2	3	4	5	6
1933	II	The Bombay (District) Tobacco Act, 1933.	Amended by Bom. Act 2 of 1935.	29th March 1935.	1853
			Amended by Bom. Act 26 of 1935.	21st November 1935.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 6 of 1938.	24th March 1938.	
1933	V	The Presidency Small Cause Courts (Bombay Amendment) Act, 1933.	....	....	1868
1933	VI	The Bombay Village Panchayats Act, 1933.	Amended by Bom. Act 34 of 1935;	6th February 1936 ..	1865
			Amended by Bom. Act 24 of 1936;	22nd January 1936.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council;		
			Amended by Bom. 18 of 1939;	18th September 1939.	
			Amended by Bom. 2 of 1945;	15th March 1945.	
			Amended by Bom. 24 of 1946;	9th October 1946.	
			Amended by Bom. 60 of 1947;	28th January 1948.	
			Amended by Bom. 4 of 1949.	7th April 1949.	

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette*.	Page.
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1933	XIII	The City of Bombay Municipal (Amendment) Act, 1933.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1915
1933	XVIII	The Indian Registration (Bombay Amendment) Act 1933.	.....	.....	1919
1933	XX	The Presidency-towns Insolvency (Bombay Amendment) Act, 1933.	Amended by Bom. 3 of 1935. Adapted and modified by the Adaptation of Indian Laws Order in Council. Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council. Amended by Bom. 17 of 1945.	10th April 1935 ... 15th August 1945 ...	1921
1933	XXII	The Bombay Live stock Improvement Act, 1933.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1927
1934	IX	The Bombay Trade Disputes Conciliation Act, 1934.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1935
1934	X	The Bombay Devadasis Protection Act, 1934.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1945
1935	VII	The Bombay Nurses, Midwives and Health Visitors Registration Act, 1935.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1949

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
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1935	XVIII	The Musalman Wakf (Bombay Amendment) Act, 1935.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1959
1935	XXI	The Identification of Prisoners (Bombay Second Amendment) Act, 1935.	.....	.....	1971
1935	XXV	The Bombay Public Trusts Registration Act, 1935.	Amended by Bom. Act 24 of 1936; Adapted and modified by the Adaptation of Indian Laws Order in Council.	22nd January 1937 ..	1975
			Amended by Bom. 10 of 1944.	15th July 1944.	
			Amended by Bom. 17 of 1945.	15th August 1945.	
			Amended by Bom. 65 of 1948.	15th December 1948.	
1935	XXIX	The Bombay Criminal Procedure (Elections Offences) Amendment Act, 1935.	.....	.....	1987
1935	XXXIV	The Bombay Motor Vehicles Tax Act, 1935.	Amended by Bom. Act 24 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council.	22nd January 1937.	1989
			Amended by Bom. 13 of 1939.	15th June 1939.	
			Amended by Bom. 3 of 1940.	28th March 1940.	
			Amended by Bom. 9 of 1942.	10th April 1942.	
			Amended by Bom. 46 of 1947.	15th December 1947.	
			Amended by Bom. 5 of 1949.	11th April 1949.	
1935	XXXV	The Bombay Cotton Control Act, 1935.	.....	.....	Not printed.
1936	IV	The Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council.		2009

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1936	XIX	The Bombay Famine Relief Fund Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. 13 of 1939. Amended by Bom. 9 of 1940.	..... 15th June 1939. 27th August 1940.	2019
1936	XX	The Bombay Opium Smoking Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. 17 of 1945.	..... 15th August 1945.	2023
1936	XXIII	The Parsi Public Trusts Registration Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. 10 of 1944. Amended by Bom. 17 of 1945.	..... 15th July 1944. 15th August 1945.	2033

PART V—ACTS PASSED BY THE BOMBAY LEGISLATURE AND THE REGULATIONS MADE BY THE GOVERNOR OF BOMBAY UNDER SUB-SECTION (2) OF SECTION 92 OF THE GOVERNMENT OF INDIA ACT, 1935.

(1937—1949)

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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
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1937	III	The Bombay Legislature Members' Salaries and Allowances Act, 1937.	Amended by Bom. 11 of 1946.	8th June 1946 ..	2051
1937	IV	The Bombay Ministers' Salaries Act, 1937.	Amended by Bom. 13 of 1946.	15th June 1946 ..	2055
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1938	XV	The Indian Lunacy (Bombay Amendment) Act, 1938.	....	....	2067
1938	XVIII	The Land Acquisition (Bombay Amendment) Act, 1938.	....	....	2069
1938	XIX	The Bombay Probation of Offenders Act, 1938.	Amended by Bom. Act 17 of 1945. Repealed in part by Bom. Act 38 of 1947. Amended by Bom. Act 23 of 1949.	15th August 1945 .. 28th November 1947 17th May 1949.	2071
1938	XX	The Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1938.	Amended by Bom. Act 33 of 1949.	1st July 1949	2079
1938	XXII	The Bombay Forfeited Lands Restoration Act, 1938.			2083
1938	XXIV	The Indian Registration (Bombay Amendment) Act, 1938.			2089
1938	XXVI	The Bombay Medical Practitioners' Act, 1938.			2095

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette*.	Page
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1939	XII	The Bombay Revenue Tribunal Act, 1939.	.....	.....	2125
1939	XIII	The Bombay Charged Expenditure Act, 1939.	Amended by Bom. Act 29 of 1949.	3rd June 1949 ..	2131
1939	XIV	The Transfer of Property and The Indian Registration (Bombay Amendment) Act, 1939.	Amended by Bom. Act 17 of 1945.	15th August 1945. ..	2135
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1939	XXII	The Bombay Agricultural Produce Markets Act, 1939.	Amended by Bom. 57 of 1948.	29th November 1948	2143
1939	XXVI	The Bombay Fodder and Grain Control Act, 1939.	Amended by Bom. 17 of 1941.	1st December 1941 ..	2159
1942	II	The Local Authorities Loans (Bombay Amendment) Act, 1942.	.....	.....	2163
1942	XXVIII	The Bombay Land Improvement Schemes Act, 1942.	Amended by Bom. 3 of 1944. Amended by Bom. 7 of 1945. Amended by Bom. 73 of 1948.	29th March 1944 .. 21st April 1945. .. 31st December 1948.	2165
1942	XXX	The Bombay Cotton Control Act, 1942.	Amended by Bom. 63 of 1947.	29th January 1948 ..	2177
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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
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1944	X	The Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944.	.....	.....	2209
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1945	XVII	The Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1946.	Amended by Bom. 52 of 1947.	31st December 1947.	2225
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Year.	No	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1946	XXV-III	The Prevention of Cruelty to Animals, the Bombay District Police and the City of Bombay Police (Amendment) Act, 1946.	.....	.....	2321
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1947	VI	The Bombay Public Security Measures Act, 1947.	Amended by Bom. 17 of 1948 ; Amended by Bom 30 of 1948.	24th March 1948 .. 8th April 1948. ..	2333
1947	VII	The Motor Vehicles (Bombay Amendment) Act, 1947.	.....	.....	2345
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1947	XI	The Bombay Industrial Relations Act, 1946.	Amended by Bom. 43 of 1948. Amended by Bom. 74 of 1948.	18th May 1948 ... 31st December 1948.	2355
1947	XIV	The Indian Registration Bombay Amendment) Act, 1947.	.....	.....	2409
1947	XVII	The Prisoners (Bombay Amendment) Act, 1947.	.....	.....	2413
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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
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PART IV

Acts Passed by the Bombay Legislative Council

THE BOMBAY COTTON CONTRACTS CONTROL (WAR PROVISIONS) REPEAL ACT, 1922.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Repeal of Bom. I of 1919.
3. Provision for the settlement of certain contracts and disputes after repeal.
4. Disposal of property of Bombay Cotton Contracts Board.
5. Bom. I of 1919, section 5, not to apply in certain cases.

BOMBAY ACT No. III OF 1922.[1]

[THE BOMBAY COTTON CONTRACTS CONTROL (WAR PROVISIONS) REPEAL ACT, 1922.]

[*5th May 1922.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to repeal the Bombay Cotton Contracts Control (War Provisions) Act, 1919.

Bom. I of 1919. WHEREAS it is expedient to repeal the Bombay Cotton Contracts Control (War Provisions) Act, 1919; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Bombay Cotton Contracts Control (War Provisions) Repeal Act, 1922.

Repeal of Bom. I of 1919. Bom. I of 1919. 2. The Bombay Cotton Contracts Control (War Provisions) Act, 1919, hereinafter called "the said Act," is, with effect from 1st June 1922 and except to the extent mentioned in section 3, hereby repealed.

Provision for the settlement of certain contracts and disputes after repeal. 3. The said Act and the rules and bye-laws made thereunder shall continue in force thereafter only for the purpose of settling contracts and disputes in relation thereto, for the purchase and sale of cotton to be delivered on or before 31st May 1922, and the Bombay Cotton Contracts Board shall deal with such contracts and disputes and the powers and functions of the Board in relation thereto shall as regards such contracts and disputes remain in full force and effect, provided that the application for the exercise of the powers and functions of the Board under its rules and bye-laws is made not later than 15th July 1922.

Disposal of property of Bombay Cotton Contracts Board. 4. On the settlement of the last such dispute, the property of the Bombay Cotton Contracts Board shall vest in the [2][Provincial Government] and the proceeds thereof shall, after the liabilities of the Board shall have been discharged, be applied by the [2][Provincial Government] for the benefit of the cotton trade of the City of Bombay.

Bom. I of 1919, section 5, not to apply in certain cases. 5. Notwithstanding anything contained in section 5 of the said Act, no contract for the purchase or sale of cotton to be delivered after 31st May 1922, whether made before or after the passing of this Act, shall be void by reason of its contravening any rule or bye-law made by the Bombay Cotton Contracts Board.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Part V, page 7.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

MO-II Bk H 957—1a

THE MAHUL CREEK (EXTINGUISHMENT OF RIGHTS) ACT, 1922.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extinguishment of rights.
3. Compensation to be awarded for loss or damage caused by extinction of rights.

SCHEDULE.

BOMBAY ACT No. IV OF 1922.[1]

[THE MAHUL CREEK (EXTINGUISHMENT OF RIGHTS) ACT, 1922.]

[*20th May 1922.*]

Amended by Bom. 16 of 1927.

WHEREAS it is expedient to facilitate the laying by the Trustees of the Port of Bombay of a new oil pipe line to the oil pier at Trombay;

And whereas for the proper laying and protection of the said pipe line it is necessary to keep the drawbridge now maintained by the Port Trust Railway over the Mahul Creek permanently closed and thus to cut off from access to the sea a portion of the said creek;

And whereas it is therefore necessary to extinguish all [2]* * * rights of navigation in the said creek over and above the site of the said bridge;

And whereas the previous sanction of the Governor-General required by clauses (*e*) and (*f*) of sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. 5, c. 61.

1. This Act may be called the Mahul Creek (Extinguishment of Rights) Act, 1922. Short title.

2. From the first day of June 1922 all [2]* * * rights of navigation in that part of the Mahul Creek which lies over and above or to the north of the drawbridge now to be kept permanently closed by the Trustees of the Port of Bombay, and spanning the said creek at a point specified in the Schedule hereto, shall be extinguished. Extinguishment of rights.

3. (*1*) On the passing of this Act, the Collector of Bombay shall commence to take order for the award of compensation for any loss or damage caused to any person by the extinction of such rights, in the same manner, as nearly as may be, as if he had been directed under section 7 of the Land Acquisition Act, 1894, to take order for the acquisition of land. Compensation to be awarded for loss or damage caused by extinction of rights.

I of 1894.

(*2*) Compensation shall be determined and awarded in accordance, as nearly as may be, with the provisions of the Land Acquisition Act, 1894, by the said Collector, or, if his award is not accepted, by the Court.

I of 1894.

SCHEDULE.

(*See* section 2.)

The site of the drawbridge is about 600 feet, measured along the western edge of the Mahul Creek, to the north of the centre line of the Pakdi Creek, as shown on City Survey Sheet No. 587, and 900 feet measured along the western edge of the Mahul Creek to the south of the centre line of the Chandani Creek, as shown on City Survey Sheet No. 589. It is approximately 730 feet to the east of the old Tower situate near the Laxman Govind Salt Pan Works as shown on City Survey Sheet No. 587.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Part V, page 2.

[2] The words "tidal rights and" were repealed by Bom. 16 of 1927. This repeal shall be deemed to have been made and to have had effect from the date on which Bom. 4 of 1922 came into operation:

Provided that if a claim for compensation for loss of tidal rights has been preferred before the Collector of Bombay and the claim has not been adjudicated upon when this Act comes into force, the time during which the proceedings were pending before the Collector shall be excluded in calculating limitation for any suit that may be filed hereafter for damages for interference with such tidal rights. *See* Bom. 16 of 1927, s. 3.

THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT) ACT, 1922.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Amendment of section 2 of XXXIII of 1920.
3. Amendment of section 5 of XXXIII of 1920.
4. Amendment of section 7 of XXXIII of 1920.

BOMBAY ACT No. XI OF 1922.[1]

[THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT) ACT, 1922.]

[*14th December 1922.*]

*Amended by Bom. 17 of 1945.

An Act to amend the Identification of Prisoners Act, 1920.

XXXIII of 1920 WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920, in its application to [2][the Greater Bombay] in manner hereinafter appearing;

AND WHEREAS the previous sanction of the Governor General required by 5 & 6, Geo. 5, c. 61. clause (*f*) of sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Identification of Prisoners (Bombay Amendment) Act, 1922.

(*2*) It extends to [2][the Greater Bombay].

Amendment of section 2 of XXXIII of 1920.

2. In clause (*b*) of section 2 of the Identification of Prisoners Act, 1920, hereinafter called "the said Act", after the figures "1898" the words and figures "or Chapter V of the City of Bombay Police Act, 1902" shall be inserted.

Bom. IV of 1902.

Amendment of section 5 of XXXIII of 1920.

3. In section 5 of the said Act

(*a*) after the figures "1898" the words and figures "or the City of Bombay Police Act, 1902" shall be inserted; and

Bom. IV of 1902.

(*b*) to the first proviso, the words "or a Presidency Magistrate" shall be added.

Amendment of section 7 of XXXIII of 1920.

4. In section 7 of the said Act, after the word "Officer" the words "or in the City of Bombay, the Commissioner of Police" shall be inserted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Part V, page 96.

[2] These words were substituted for the original by Bom. 17 of 1945, s. 9, Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

* This Act has been repealed and re-enacted and the amendments made by s. 9, Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

THE BOMBAY ENTERTAINMENTS DUTY ACT, 1923.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and operation.
2. Definitions.
3. Duty on payments for admission to entertainments.
3A Duty on complimentary tickets.
4. Method of levy.
5. Punishment for non-compliance with section 4.
6. Entertainments for charitable or educational purposes exempted : exemption by State Government.
7. Power to make rules.
8. Power to enter place of entertainment for purposes of the Act.
9. Recoveries.
10. Delegation of powers by the State Government.

MO-III Bk H 902—24a

BOMBAY ACT No. I OF 1923.[1]

[THE BOMBAY ENTERTAINMENTS DUTY ACT, 1923.]

[*13th January 1923.*]

Amended by Bom. 6 of 1925.
" " " 13 of 1931.
" " " 2 of 1932, read with Bom. 23 of 1948.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 13 of 1943.
" " " 17 of 1945.†
" " " 21 of 1948.
" " " 37 of 1948.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 38 of 1950.
" " " 25 of 1954.

An Act to impose a duty in respect of admission to entertainments in the Presidency of Bombay.

WHEREAS it is expedient to provide for the levy of a duty in respect of admission to [2][entertainments] in the Presidency of Bombay; It is hereby enacted as follows :—

Short title, extent and operation.

1. (*1*) This Act may be called the Bombay Entertainments Duty Act, 1923.

(*2*) It extends to the whole of the Bombay Presidency.

(*3*) It shall come into operation in the first instance only in [3][the Greater Bombay], the Ahmedabad municipal district and cantonment, the Surat municipal district, the Poona city and suburban municipal districts, the Poona cantonment, [4][and] the Sholapur municipal district [5]* * * *; but the [6][[7][State] Government] may by notification [8]in the [9][*Official Gazette*] direct that it shall come into operation in any other local area on such date as may be specified in such notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Part V, p. 177; for Report of Select Committee, see *ibid*, 1922, pp. 244–245; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1922, Vol. VII.

[2] The word "entertainments" was substituted for the *original* words, by Bom. 25 of 1954, s. 2.

[3] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9 and Schedule E, read with Bom. 52 of 1947, s 2., proviso.

[4] This word was inserted by the Adaptation Laws Order, 1950.

[5] The words "and the Karachi municipal district and cantonment" were omitted, *ibid.*

[6] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws order in Council.

[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[8] This Act came into operation in the Kirkee Cantonment area on 1st April 1930 (*vide* Government Notification in the Revenue Department, No. 7304-E, dated the 28th January 1930, published in the *Bombay Government Gazette*, 1930, Part I, p. 187).

[9] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

†This Act has been repealed and re-enacted and amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Mo-B Bk H 134—11a

[1](*b*) "payment for admission" includes—

(*i*) any payment made by a person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a payment involving duty or more duty is required.

(*ii*) any payment for seats or other accommodation in a place of entertainment.

(*iii*) any payment for a programme of synopsis of an entertainment, [2]*

[3][(*iii-a*) any payment made for the loan or use of any instrument or contrivance which enables a person to get a normal or better view or hearing of the entertainment which, without the aid of such instrument or contrivance, such person would not get; and]

(*iv*) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment if any for admission to the entertainment;

(*c*) "proprietor" in relation to any entertainment includes any person responsible for the management thereof;[4]*

(*d*) "admission to an entertainment" includes admission to any place in which the entertainment is held.

[5][(*e*) 'complimentary ticket' means a ticket or pass for admission to an entertainment free of any payment or at a reduced rate of payment for such admission.]

Duty on payments for admission to entertainments.

3. [6][(*1*) There shall from the 1st day of April 1948 be levied and paid to the Government of Bombay on all payments for admission to any entertainment a duty (hereinafter referred to as "entertainments duty") at the following rate, namely :—

Where the payment, excluding the amount of duty is made for admission to a race-course licensed under the Bombay Race-courses Licensing Act, 1912, Bom. III of 1912. 37½ per cent. of such payment, and in any other case,

where the payment, excluding the amount of the duty—

(*i*) does not exceed four annas ... one anna.

(*ii*) exceeds four annas but does not exceed eight annas. two and half annas.

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[1] This clause was substituted for the original clause by Bom. 13 of 1931, s. 2.
[2] The word "and" was deleted by Bom. 25 of 1954, s. 3(*a*).
[3] Sub-clause (*iii-a*) was inserted, *ibid*, s. 3(*b*).
[4] The word "and" was deleted by Bom. 38 of 1950, s. 2.
[5] Clause (*e*) was substituted for the original, *ibid*.
[6] This sub-section was substituted for the original by Bom. 2 of 1932, s. 41, as inserted by Bom. 23 of 1948, s. 14, read with s. 9 of Bom. 2 of 1949.

(*iii*) exceeds eight annas but does not exceed one rupee.	five annas.
(*iv*) exceeds one rupee but does not exceed two rupees.	ten annas.
(*v*) exceeds two rupees but does not exceed four rupees.	one rupee and four annas.
(*vi*) exceeds four rupees but does not exceed five rupees.	two rupees.
(*vii*) exceeds five rupees but does not exceed ten rupees.	two rupees and eight annas.
(*viii*) exceeds ten rupees, for every five rupees or part thereof in excess of the first ten rupees, in addition to the payment on the first ten rupees.	two rupees and eight annas]

(*2*) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or thing combined with the right of admission to any entertainment or involving such right of admission without further payment or at a reduced charge, the entertainments duty shall be paid on the amount of the lump sum ;

but where the [1][[2][State] Government] is of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the duty has not been in operation, the duty shall be charged on such an amount as appears to the [1][[2][State] Government] represent the right of admission to entertainments in respect of which the entertainments duty is payable.

[3][**3A.** There shall from the 1st day of April 1951 be levied and paid to the State Government on every complimentary ticket issued by the proprietor the entertainments duty at the appropriate rate prescribed under section 3, as if full payment had been made for admission to the entertainment according to the class of seat or accommodation which the holder of such ticket is entitled to occupy or use and the holder of such ticket shall be deemed to have been admitted for payment for the purpose of this Act.] Duty on complimentary tickets.

4. [4][(*1*) Save as otherwise provided by this Act, no person other than a person who has to perform some duty in connection with an entertainment or a duty imposed upon him by any law, shall be admitted to any entertainment, except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the State Government for the purposes of revenue and denoting that the proper entertainments duty has been paid.]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] Section 3A was inserted by Bom. 38 of 1950, s. 3.
[4] This sub-section was substituted for the original, *ibid.*, s. 4.

(2) The [1][[2][State] Government] may, on the application of a proprietor of any entertainment in respect of which the entertainments duty is payable under section 3, allow the proprietor on such conditions as the [1][[2][State] Government] may prescribe to pay the amount of the duty due—

(*a*) by a consolidated payment of a percentage, to be fixed by the [1][[2][State] Government], of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the duty ;

(*b*) in accordance with returns of the payments for admission to the entertainment and on account of the duty ;

(*c*) in accordance with the results recorded by any mechanical contrivance which automatically registers the number of persons admitted.

(3) The provisions of sub-section (*1*) of this section and of section 5 shall not apply to any entertainment in respect of which the duty due is payable in accordance with the provisions of sub-section (*2*).

Punishment for non-compliance with section 4.

5. If any person is admitted [3]* * to any place of entertainment and the provisions of section 4 are not complied with, the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of each offence to a fine which may extend to rupees five hundred and shall be liable to pay any duty which should have been paid.

Entertainments for charitable or educational purposes exempted; exemption by [2][State] Government.

6. (*1*) Entertainments duty shall not be levied on payments for the admission to any entertainment where, in the case of [4][the Greater Bombay] the Commissioner of Police, or elsewhere, the District Magistrate, is satisfied that—

(*a*) the whole of the takings thereof are devoted to philanthropic or charitable purposes without any charge on the takings for any expenses of the entertainment ; or

(*b*) the entertainment is of a wholly educational character ; or

(*c*) the entertainment is provided partly for educational or partly for scientific purposes by a society, institution or committee not conducted or established for profit.

(2) Where the Commissioner of Police or the District Magistrate, as the case may be, is satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic or charitable purposes, and that the whole of the expenses of the entertainment do not exceed twenty per cent. of the receipts, the amount of the entertainments duty paid in respect of the entertainment shall be refunded to the proprietor.

(3) The [1][2][State] Government] may, by general or special order, exempt any entertainment or class of entertainments from liability to entertainments duty.

[5][*Explanation.*—In this section, the takings or net proceeds of an entertainment shall be deemed to be devoted to philanthropic or charitable purposes if such takings or net proceeds are devoted to the benefit of Scheduled Castes or Scheduled Tribes or for the advancement of any class of citizens declared by the State Government as socially and educationally backward classes but not to the benefit of any other class, sect or community or to any religious purposes.]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "for payment" were deleted, by Bom. 38 of 1950, s. 5.

[4] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[5] This explanation was added by Bom. 25 of 1954, s. 4.

7. (*1*) The [1][[2][State] Government], may make rules for securing the payment of the entertainments duty and generally for carrying into effect the provisions of this Act, and in particular— Power to make rules.

(*a*) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped ; and for securing the defacement of stamps when used ;

(*b*) for the use of tickets covering the admission of more than one person and the calculation of the duty thereon ; and for the payment of the duty on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation ;

(*c*) for controlling the use of mechanical contrivances (including the prevention of the use of the same mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of mechanical contrivances ;

[3]* * * * * * *

(*d*) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments in respect of which the duty due is payable in accordance with the provisions of section 4, sub-section (*2*) ; [4][and for requiring such proprietors to furnish security for payment of duty under sub-section (*2*) of section 4 and prescribing conditions for forfeiture of such security ;]

(*e*) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund ;

(*f*) for the keeping of accounts of all stamps used under this Act ;

(*g*) for the presentation and disposal of applications for exemption from payment of the entertainments duty or for the refund thereof ; and

[5][(*h*) for the exemption from entertainments duty or from any part or class thereof of soldiers, sailors or other defence forces in uniform of any nationality.

(*2*) If any person acts in contravention of, or fails to comply with, any such rules, he shall, on conviction [6][be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

(*3*) Such rules shall be made after previous publication.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] Clause (*cc*) was deleted by Bom. 38 of 1950, s. 6.
[4] These words were added by Bom. 25 of 1954, s. 5(*1*).
[5] This clause was substituted for the original by Bom. 21 of 1948, s. 2.
[6] These words were substituted for the original by Bom. 25 of 1954, s. 5 (*2*).

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8. The Commissioner of Police in [1][the Greater Bombay], or the District Magistrate elsewhere, or any officer other than a Police officer below the rank of Head Constable duly authorised by them in this behalf, may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment, at any reasonable time, with a view to seeing whether the provisions of this Act or the rules made thereunder are being complied with.

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[1] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[2] For Notification under this section, *see* Government Notification in the Revenue Department, No. 7230-E, dated the 17th December 1923, published in the *Bombay Government Gazette*, 1923, Part I, p. 2975.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

THE BOMBAY LOCAL BOARDS ACT, 1923.

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BOMBAY ACT No. VI OF 1923.[1]

[THE BOMBAY LOCAL BOARDS ACT, 1923.]

[*17th March 1923*]

Amended by Bom. 2 of 1925.
" " " 13 of 1925.
" " " 7 of 1926.
" " " 10 of 1927.
" " " 5 of 1928.
" " " 4 of 1930.
" " " 25 of 1930.
" " " 10 of 1931.
" " " 22 of 1931.
" " " 23 of 1931.
" " " 5 of 1932.
" " " 15 of 1932.
" " " 16 of 1933.
" " " 8 of 1934.
" " " 14 of 1934.
" " " 6 of 1935.
" " " 13 of 1935.
" " " 16 of 1935.
" " " 30 of 1935.
" " " 34 of 1935.
" " " 14 of 1936.
" " " 18 of 1936.
" " " 24 of 1936.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Pt. V., pp. 140-145; for Report of Select Committee, *see ibid*, pp. 191-194; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1922, Vol. VII.

Sections 8 and 9 of Bom. I of 1938 read as under :—

" 8. (*1*) Notwithstanding anything contained in this Act or the rules or orders thereunder, in the case of a local board— Provision for increase of reserved seats for backward tribes in certain Districts.

(*a*) of a district which includes a partially excluded area, or in respect of which the Provincial Government is of opinion that the population of the members of backward tribes residing therein is sufficiently large to justify reservation of seats being made for the purpose of giving them representation, and

(*b*) which is constituted a date next following the commencement of this Act, the Provincial Government may, at any time during the term of office of such board, direct by notification in the *Official Gazette* that the total number of members of such board prescribed by rules or orders under section 133 of the said Act shall be increased to such number as it deems necessary for the purpose of providing seats for the members of backward tribes or adding to the number of seats already reserved for such members under the said rules or orders.

(*2*) On the publication of such notification elections shall, for the purpose of filling the number of seats so increased, be held in the manner specified in the said Act or the rules or orders thereunder subject to such modification as the Provincial Government may direct.

(*3*) The period for which the members elected to fill the said seats shall hold office shall be co-terminous with the term of office of such board under section 28 of the said Act.

(*4*) Nothing herein contained shall effect the constitution of any committee which may have been constituted or the election or appointment of any officers who may have been elected or appointed, before the election of the additional members under sub-section (*2*).

Explanation.—For the purpose of this section, a partially excluded area shall be any of the area in the province of Bombay specified in the Schedule to the Government of India (Excluded and Partially Excluded Areas) Order, 1936.

9. (*1*) Nothing in this Act shall affect the local boards constituted immediately before the commencement of this Act and no appointment, notification, notice, tax, order, scheme, licence, permission rule, by-law or form made, issued or imposed by or in respect of such local board shall be deemed to be invalid by reason only of the fact that this Act has come into force. Savings.

(*2*) Notwithstanding anything contained in this Act any casual vacancy in a local board constituted immediately before the commencement of this Act shall, subject to the provisions of section 33, be filled in the manner provided by the said Act, as if this Act had not been passed."

Adapted by and modified the Adaptation of Indian Laws Order in Council.
Amended by Bom. 1 of 1938.
,, ,, ,, 23 of 1938.
,, ,, ,, 23 of 1939.†
,, ,, ,, 3 of 1940.§
,, ,, ,, 17 of 1945.††
,, ,, ,, 21 of 1945.‡
,, ,, ,, 19 of 1948.
,, ,, ,, 10 of 1949.
,, ,, ,, 47 of 1949.
,, ,, ,, 8 of 1950.
,, ,, ,, 17 of 1950.‡‡
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 32 of 1950.
,, ,, ,, 2 of 1951.
,, ,, ,, 27 of 1951.
,, ,, ,, 11 of 1954.‡‡‡
,, ,, ,, 18 of 1954.
,, ,, ,, 43 of 1955.*

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†Section 4 of Bom. 23 of 1939 reads as follows:—

Act not to apply to suits or proceedings in respect of elections before this Act.

"4. Nothing in this Act shall apply to any suits or proceedings in respect of elections held prior to the date of the coming into force of this Act.

§This Act has been repealed and re-enacted by Bom. 40 of 1947, s. 2.

††This Act has been repealed and re-enacted and the amendment made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

‡This Act has been repealed and provisions of section 3 (*ii*) thereof only have been re-enacted, by Bom. 19 of 1948, s. 2.

Savings.

‡‡Section 8 of Bom. 17 of 1950, reads as follows:—

"8. Nothing in this Act shall affect the rights of any Councillor or member elected to fill the seats reserved for Muslims or Muhammedans, Anglo-Indians or Indian Christians to continue as a Councillor or member of a municipality, local board or village panchayats, as the case may be, during the term of the office for which he was validly elected before this Act came into force."

‡‡‡Section 16 of Bom. 11 of 1954, reads as follows:—

Amendments made by sections 2 and 4 to 7 to apply to elections held on or after 1st March 1945.

16. The amendments made in the said Act by sections 2 and 4 to 7 (both inclusive) of this Act shall have effect for the purposes of the general elections to be held on or after the first day of March 1955, and for all subsequent elections. For the purposes of any elections held between the period from the date of the coming into force of this Act and the 28th day of February 1955 (both inclusive), the list of voters in force on the date of coming into force of this Act shall continue to operate.

*Section 11 of Bom. 43 of 1955 reads as follows:—

Amendments made by sections 2 and 3 to apply to elections held on or after 31st December 1955.

"11. The amendments made in the Local Boards Act by sections 2 and 3 of this Act shall have effect for the purposes of elections of members for any constituency of the local board to be held under the said Act after the 31st December 1955 and for all subsequent elections.

For the purposes of any elections to be held between the period from the date of the coming into force of this Act and the 31st day of December 1955 (both inclusive) the list and the supplementary list of voters in force on the date of the coming into force of this Act shall continue to operate.

An Act to consolidate and amend the law relating to local boards.

5 & 6 Geo. V. c. 61.

WHEREAS it is expedient to consolidate and amend the law relating to local boards and local funds and whereas the previous sanction of the Governor-General required by clauses (*a*), (*e*) and (*h*) of sub-section (*3*) of section 80A of the Government of India Act, has been obtained for the passing of this Act. It is hereby enacted as follows :—

CHAPTER I—PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Local Boards Act, 1923.

(*2*) It extends to the whole of the Presidency of Bombay except [1][Greater Bombay] [2]* * *

Bom. III of 1869. Bom. I of 1884.

Repeal of certain Acts.

2. The [3]* * * Bombay Local Funds Act, 1869, and the Bombay Local Boards Act, 1884, are hereby repealed : Provided that such repeal shall not affect the liability of any person to pay any sum due from him under any of the said enactments.

Interpretation section.

3. In this Act, unless there is anything repugnant in the subject or context,

(*a*) the words " salaried [4][servant of the [5]Government] " do not include a retired [4][servant of the [5]Government] in receipt of a pension or a person in receipt of salary or fees [6][from the [5]Government] who is not a full-time [4][servant of the [5]Government] ;

(*b*) the word " taluka " means any local area for which [7]* * * [8][a taluka committee is appointed under section 38A] inclusive of the portion of such area if any, for the time being within a municipal district or a [9]* cantonment ;

[10][(*c*) " board " or " local board " means a district local board established under this Act ;

[11][(*cc*) " Scheduled Castes " means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Bombay under article 341 of the Constitution of India and until the notification in relation to the State of Bombay is issued under that article, means Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936 ;

(*dd*) " Scheduled Tribes " means such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Bombay under article 342 of the Constitution of India ;]

[12]* * * * * * *

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[1] These words were substituted for the words " the City of Bombay " by Bom. 8 of 1950, ss. 5 and 11.
[2] The words " and Aden " were omitted by the Adaptation of Indian Laws Order in Council.
[3] The words and figures " Sind Local Funds Act, 1865. the " were deleted by Bom. 47 of 1949, s. 2.
[4] The words " servant of the Crown " were substituted for the words " servant of the Government " by the Adaptation of Indian Laws Order in Council.
[5] The word " Government " was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.
[6] The words " from the Crown " were substituted or the words " from the Government " by the Adaptation of Indian Laws Order in Council.
[7] The words " a taluka board is established or " were deleted by Bom. 47 of 1949, s. 3 (*1*).
[8] These words, figures and etters were inserted by Bom. 6 of 1935, s. 2.
[9] The word " Military " was deleted by Bom. 47 of 1949, s. 3 (*1*).
[10] This clause was substituted for the original by Bom. 47 of 1949, s. 3 (*2*).
[11] Clauses (*cc*) and (*dd*) were substituted for the original by Bom. 17 of 1950, s. 4 (*1*) (*a*).
[12] Clause (*ee*) was deleted, *ibid.*, s. 4 (*1*) (*b*).

[1][(*ff*) " district " means the district referred to in sub-section (*1*) of section 3A or the local area declared as a district under sub-section (*2*) of that section, as altered by the notification, if any, issued under sub-section (*3*) of the same section ;]

[2][(*gg*) " octroi " means a tax by way of cess on the entry of goods into a district for consumption, use or sale therein ;]

(*d*) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code. Bom V of 1879.

CHAPTER II—Constitution of Local Boards.

Power to constitute local area into district.

[3]**3A.** (*1*) Save as otherwise provided in this section, every local area constituted as a district from time to time under the Bombay Land Revenue Code, 1879, shall be deemed to be a district for the purposes of this Act. Bom. V of 1879

(*2*) The [4][State] Government may, in special circumstances, by notification in the *Official Gazette*, declare any local area whether in the same district constituted under the Bombay Land Revenue Code, 1879, or in any other such district to be a district for the purposes of this Act and specify therein the name of the district. Bom. V of 1879.

(*3*) The [4][State] Government may, by notification in the *Official Gazette*,—

(*i*) exclude from any district any local area comprised therein ; or

(*ii*) include in any district any local area in the vicinity thereof ; or

(*iii*) cancel a notification issued under sub-section (*2*) ; or

(*iv*) alter the name of any district.

(*4*) Before issuing a notification under sub-section (*2*) or sub-section (*3*), the [4][State] Government shall, by a general notice published in the *Official Gazette*, require a district local board or boards or any persons who may be affected by the issue of such notification, to submit any objections to the proposal, and shall consider the objections submitted within the period specified in such notice.

(*5*) Every notification issued under sub-section (*2*) or clause (*i*) or clause (*ii*) or sub-section (*3*) shall contain a statement of reasons therefor and shall be laid before both the [5][Houses of the [4][State] Legislature.

(*6*) If any district comprises only a part of the district constituted under the Bombay Land Revenue Code, 1879, or two or more districts so constituted or parts of two or more such districts, the [4][State] Government may, by notification in the *Official Gazette*, declare which officers shall be considered to be the Collector and the Commissioner, and which other officers referred to in this Act shall be considered as such officers in respect of that district for the purposes of this Act.] Bom. V of 1879.

Establishment of district [7]* * local boards.

4. [6][(*1*) The [4][State] Government may establish a district local board for an area constituted as a district :

Provided that if the [4][State] Government is of opinion that it is not expedient to establish a district local board for any local area, it may direct that all or any of the powers and duties which are exercisable by or on behalf of a local board under this Act or any other law for the time being in force shall in such area be exercised and performed by such person or persons as the [4][State] Government may from time to time appoint. The exercise of such powers and the performance of such duties shall be in accordance with such directions as the [4][State] Government may from time to time give] ;

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[1] This clause was inserted by Bom. 19 of 1948, s. 3.

[2] This clause was inserted by Bom. 10 of 1949, s. 2.

[3] This section was inserted by Bom. 19 of 1948, s. 4.

[4] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The word "Houses" was substituted for the word "Chambers", *ibid.*

[6] This sub-section was substituted for the original by Bom. 47 of 1949 ; s. 4 (*1*).

[7] The words "and taluka" were deleted, *ibid*, s. 4 (*3*).

(*2*) Local funds shall be administered by local boards established under the provisions of this Act.

(*3*) A district local board [1]* * * shall have authority for the purposes of this Act over the area for which it has been established, except such portion thereof as is for the time being within the limits of a municipal district or cantonment.

Bom. I of 1884. (*4*) Any local board established under the Bombay Local Boards Act, 1884, and existing immediately prior to the coming into force of this Act, shall be deemed to have been established under this Act ;

and in respect of all property, debts, obligations, contracts, agreements, civil and criminal proceedings and any other matter or thing the rights and liabilities of any such local board shall be deemed to vest in the local board so deemed to have been established ;

and any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed in respect of any such local board, under any law other than the Acts repealed by section 2, or, so far as consistent with the provisions of this Act, under any Act so repealed shall be deemed to have been made, issued or imposed under the provisions of such law of this Act respectively in respect of the local board so deemed to have been established under this Act, unless and until superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under such law or this Act.

[2]* * * * *

Constitution of local boards.

5. [3][*(1)* Every district [4]* * * local board shall, subject to the provisions of sub-section (*5*), consist of elective members].

[5](*2*) * * * * * * *

[5](*3*) * * * * * * *

[5](*4*) * * * * * * *

(*5*) Any vacancy due to failure to elect at any election or by-election the full number of elected members may be filled by appointment by [6][the [7][State] Government].

Number of members of Local Boards, etc. to be prescribed.

[8][6. The number of members of each local board, the number and extent of the constituencies by which the members of a local board shall be elected, the number of members to be elected by each constituency and the number of seats, if any, to be reserved for the representation of women, [9][Scheduled Castes and Scheduled Tribes], shall be as prescribed by orders made by the [7][State] Government under clause (*a*) of section 133.]

Reservation of seats to cease to have effect after ten years.

[10][6A. Notwithstanding anything contained in section 6, the reservation of seats for women, the Scheduled Castes and the Scheduled Tribes prescribed by orders made under clause (*a*) of section 133 shall cease to have effect on the —

[1] The words "and subject to the authority of the district local board, a taluka local board" were deleted by Bom. 47 of 1949, s. 4 (*2*).

[2] Sub-section (*5*) was deleted, by Bom. 19 of 1948, s. 5. (*b*).

[3] This sub-section was substituted for the original by Bom. 1 of 1938, s. 3 (*1*).

[4] The words "and taluka" were deleted by Bom. 47 of 1949, s. 5.

[5] Sub-sections (*2*), (*3*) and (*4*) were deleted by Bom. 1 of 1938, s. 3 (*2*).

[6] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[7] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[8] Section 6 was substituted for the original by Bom. 41 of 1947, s. 4 (*2*).

[9] These words were substituted for the words "Muslims, Harijans, backward tribes and Indian Christians" by Bom. 17 of 1950, s. 4 (*2*).

[10] Section 6A was inserted, *ibid.* s. 4 (*3*).

expiration of the period of ten years from the commencement of the Constitution of India :

Provided that nothing in this section shall render any person elected to any of such reserved seats ineligible to continue as a member during the term of the office for which he or she was validly elected, by reason only of the fact that the reservation of seats has so ceased to have effect.]

Constitution of local boards in exceptional cases.

7. (*1*) [1][The [2][State] Government] may at any time by notification in the [3][*Official Gazette*] direct that the provisions of sections 5 and 6, and the subsequent provisions of this Act which refer to those sections, or any one or more of the said provisions, shall not apply to any local board to which for exceptional reasons, which shall be set forth in the said notification, [1][the [2][State] Government] shall deem such provisions to be unsuitable.

(*2*) In the said notification or any subsequent notification published as aforesaid [1][the [2][State] Government] may substitute such provision or provisions as it deems fit for the provision or provisions declared inapplicable to any local board and the provision or provisions so substituted shall have effect. so far as concerns such board, as if they were inserted in this Act.

(*3*) In the event of any notification under sub-section (*1*) being rescinded the local board affected thereby shall, from a date to be fixed in this behalf by [1][the [2][State] Government], be constituted in accordance with sections 5 and 6 and the subsequent provisions of this Act having reference thereto.

8. [*Qualification necessary for election to local boards.*] *Deleted by Bom. 11 of 1954, s. 2.*

General disqualifications of members.

9. (*1*) No person may be a member of a local board who—

[4][(*a*) is of unsound mind and stands so declared by a competent court ; or

(*aa*) has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State ; or]

(*b*) is a Judge of a civil court, or

[5][(*c*)[6][(*i*) has been convicted by a Court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the State Government may allow in any particular case, has elapsed since his release ; or]

[7]* * * * * * *

(*iii*) has been removed from office under section 31 and five years have not elapsed from the date of the expiry of such removal,

unless he has, by an order of [1][the [2][State] Government] notified in the [3][*Official Gazette*], been relieved from the disqualification arising on account of [8][such removal] from office, or]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word 'Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] These clauses were inserted by Bom. 43 of 1955, s. 2.

[5] Clause (*c*) was substituted for the original clauses (*c*) and (*d*) and the explanation to clause (*d*) by Bom. 13 of 1925, s. 2 (*1*) (*a*).

[6] This sub-clause was substituted for the original by Bom. 11 of 1954, s. 3 (*1*).

[7] Sub-clause (*ii*) was deleted, *ibid.* s. 3 (*2*).

[8] These words were substituted for the words "such sentence, order or ren oval" *ibid.* s. 3 (*3*).

[1](*d*) is a stipendiary officer or servant of a local board, or

[1](*e*) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a local board, or in any contract or employment with, or under, or by or on behalf of a local board, [2][or

(*f*) has directly or indirectly by himself or his partner any share or interest in any transaction of loan of money advanced to or borrowed from any officer or servant of the local board.]

(*2*) No person shall be disqualified under clause [3][(*e*)] of sub-section (*1*) for membership of a local board by reason only of such person—

Bom. VII of 1925.

(*a*) having share in any joint stock company or a share or interest in any society registered or deemed to be registered under the [4][Bombay Co-operative Societies Act, 1925], which shall contract with or be employed by or on behalf of the local board ; or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted ; or

(*c*) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board ; or

(*d*) being professionally engaged on behalf of the local board as a legal practitioner[5] ; [6][or]

[7][(*e*) being a police patil, who is an *ex-officio* keeper of village cattle-pounds under the control of the local board.]

(*3*) If any person is elected or appointed to a local board and is subject to any of the disqualifications specified in this section, his seat shall be deemed to be vacant and the vacancy shall be filled up, as soon as conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the person in whose place he is elected or appointed would have held it if he had been eligible to be a member of the board.

(*4*) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

Re-eligibility of members.

10. A person who has already been elected or appointed a member of a board on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

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[1] Clauses (*e*) and (*f*) were relettered (*d*) and (*e*) respectively by Bom. 13 of 1925, s. 2 (*1*) (*b*).
[2] The word "or" and clause (*f*) were inserted by Bom. 10 of 1949, s. 3.
[3] The letter and brackets "(*e*)" were substituted for the original letter and brackets "(*f*)" by Bom. 13 of 1925, s. 2 (*2*).
[4] The words and figures "Bombay Co-operative Societies Act, 1925" were substituted for the words and figures "Co-operative Societies Act, 1912" by Bom. 47 of 1949, s. 7.
[5] The semi-colon was substituted for fullstop by Bom. 10 of 1931, s. 2 (*a*).
[6] The word "or" was added, *ibid.*
[7] This clause was inserted, *ibid.*, s. 2 (*b*).

List of voters.

[1][11. (*1*) The electoral roll of the Bombay Legislative Assembly for the time being in force for such part of the constituency of the Assembly as is included in a constituency of a local board shall, for the purposes of this Act. be deemed to be the list of voters for such constituency

(*2*) The officer designated by the Collector in this behalf in respect of a local board shall maintain a list of voters for each constituency of such local board.

Explanation.—For the purposes of this section,—

(1) "electoral roll" shall mean an electoral roll prepared under the provisions of the Representation of the People Act, 1950 ; XLIII of 1950.

(2) ' constituency ' shall not include any area within the limits of a municipal district, municipal borough, municipal corporation or cantonment.

Persons qualified to vote and be elected.

12. (*1*) Every person whose name is in the list of voters referred to in section 11 shall, unless disqualified under this Act or any other law for the time being in force, be qualified to vote, and every person whose name is not in such list shall not be qualified to vote, at the election of a member of the constituency to which such list pertains.

(*2*) Every person whose name is in the list of voters shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected, and every person whose name is not in such list shall not be qualified to be elected, at the election for any constituency of the local board.

(*3*) Subject to any disqualification incurred by a person, the list of voters shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to vote or is qualified or is not qualified to be elected, as the case may be, at any election.

General disqualifications of voters.

13. No person shall vote at any election under this Act, if he—

(*a*) is of unsound mind and stands so declared by a competent court ;

(*b*) has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State.

Right to vote.

14. (*1*) No person shall vote at a general election in more than one constituency and if a person votes in more than one constituency, his vote in all such constituencies shall be void.

(*2*) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the list of voters for that constituency more than once and if he does so vote, all his votes in that constituency shall be void.]

15. [1]* * * * * * *

16. [1]* * * * * * *

[1] Sections 11 to 14 were substituted for the sections 11 to 16 by Bom. 43 of 1955, s. 3.

Elections when to be held.

17. Every election requisite for the purposes of this Act shall be held on such date as the Collector shall fix in this behalf :

Provided that, when the elections are for the purpose of filling the places of members whose terms of office have expired, such dates shall be not sooner than two months and not later than one month before the commencement of the term of office of members of the board to which such elections are to be made.

Provisions for election or nomination in particular cases.

18. (*1*) If at any election of a member of a local board under this Act there is an equal number of votes in favour of each of two or more persons who are willing to take office, and the addition of one vote will entitle any of the person to be elected the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by the Collector, or by such officer as he may empower in this behalf, by lot in such manner as he shall deem fit.

(*2*) If any person duly elected at any such election declines to take office, the person, if any amongst the unsuccessful candidates in whose favour the highest number of votes has been recorded and who is willing to take office shall be deemed to be the member elected.

(*3*) If at any contested election no votes are recorded, or if for any reason an election does not result in the return of the required number of qualified persons willing to take office, [1][the Commissioner,] shall appoint the required number of persons, being persons who would have been qualified to be elected, and the persons so appointed shall be deemed to be members of the local board as if they had been duly elected.

Determination of validity of elections: enquiry by Judge: Procedure.

19. (*1*) If the validity of any election of a member of a local board, or the legality of any order or proceeding made or held under section 18 is brought in question by any person qualified to vote at the election to which such question refers, such person, may, at any time within fifteen days after the date of the declaration of the result of the election or the date of the order or proceeding, apply to the District Judge of the district within which the election has been or should have been held for the determination of such question.

* * * * * * * *

(*2*) An enquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by the [3][[4][State] Government] either specially for the case or for such cases generally; and such Judge may, after such enquiry as he deems necessary, pass an order confirming or amending the declared result of the election or the order of the Collector under section 18, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise any of the powers of a civil court and his decision shall be conclusive. If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

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[1] The words " the Commissioner " were substituted for the words "the Collector, in the case of a taluka local board, and the Commissioner, in the case of a district local board" by Bom. 47 of 1949, s. 11.

[2] Proviso to sub-section (*1*) was deleted by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[1][(*2A*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of members to represent the same constituency is in question shall be heard by the same Judge; and

(*b*) in which the validity of the election of the same member elected to represent the same constituency is in question shall be heard together.

V of 1908. (*2B*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.]

(*3*) (*a*) If on holding such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (*4*), he shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

(*b*) If, in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it :

[2][Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate, or candidates as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.]

(*4*) A person shall be deemed to have committed a corrupt practice—

(*a*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(*b*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving [3][such vote, or]

[4][(*c*) who hires or procures, whether on payment or otherwise, any vehicles or vessel for the conveyance of any voter (other than the person himself, the members of his family or his agent) to and from any polling station :

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power :

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[1] Sub-sections (*2A*) and (*2B*) were inserted by Bom. 14 of 1936, s. 2.
[2] This proviso was inserted by Bom. 10 of 1949, s. 4.
[3] These words were substituted for the words "such vote." by Bom. 11 of 1954, s. 18(*i*).
[4] This clause was inserted, *ibid*, s. 8 (*ii*).

Provided further that use of any public transport vehicle or vessel or any tram car or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.]

[1][A corrupt practice] shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation[2][*1*]—The expression " a promise of individual profit "—

(*i*) does not include a promise to vote for or against any particular measure which may come before a local board for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

[2][*Explanation 2.*—The expression " vehicle " means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.]

(*5*) If the validity of the election is brought in question only on the ground of an error made by the officer charged with carrying out the rules made in this behalf under clause (*b*) of section 133, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

(*6*) If the Judge sets aside an election under clause (*a*) of sub-section (*3*), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section to be disqualified from being a member of any local board for a term of years not exceeding five and the decision of the Judge shall be conclusive :

Provided that such person may, by an order of [3][the [4][State] Government] on that behalf, be at any time relieved from such disqualification :

Provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration shall not be made.

Voter disqualified for corrupt practice.

20. Any person who has been convicted under section 171E or 171F of the Indian Penal Code, or has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall, for five years from the date of such conviction or disqualification, be disqualified from voting at any election to a local board or at any municipal election. XLV of 1860.

Publication of names of members in the *Official Gazette*.

21. The names of all members finally elected to any local board as well as the names of the [5]* members if any, appointed thereto shall be published, as so as conveniently may be, in the [6][*Official Gazette*].

Prohibition of canvassing in or near polling stations.

[7][**21A.** (*1*) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely :—

(*a*) canvassing for votes ; or

(*b*) soliciting the vote of any voter ; or

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[1] These words were substituted for the words " And a corrupt practice ", by Bom. 11 of 1954, s. 8 (*iii*).

[2] The *Explanation* was numbered as " *Explanation 1* " and *Explanation 2* was inserted, *ibid* s. 8 (*iv*).

[3] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[4] The word " State " was substituted for the word " Provincial " by the adaptation of Laws Order, 1950.

[5] The word " nominated " was deleted by Bom. 47 of 1949, s. 12.

[6] The words " *Official Gazette* " were substituted for the words. " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[7] Sections 21A to 21I were inserted by Bom. 11 of 1954, s. 9.

(*c*) persuading any voter not to vote for any particular candidate ; or

(*d*) persuading any voter not to vote at the election ; or

(*e*) exhibiting any notice or sign (other than an official notice) relating to the election.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*3*) Any offence punishable under this section shall be cognizable.

Penalty for disorderly conduct in or near polling stations.

21B. (*1*) No person shall, on the date or dates on which a poll is taken, at any polling station—

(*a*) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud-speaker, or

(*b*) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(*2*) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*3*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(*4*) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (*1*), and may seize any apparatus used for such contravention.

Penalty for misconduct at polling station.

21C. (*1*) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorized in this behalf by such presiding officer.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(*3*) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*4*) An offence punishable under sub-section (*3*) shall be cognizable.

Maintenance of secrecy of voting.

21D. (*1*) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

Officers, etc., at elections not to act for candidates or to influence voting.

21E. (*1*) No person who is a returning officer or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(*2*) No such person as aforesaid and no member of a police force shall endeavour—

(*a*) to persuade any person to give his vote at an election, or

(*b*) to dissuade any person from giving his vote at an election, or

(*c*) to influence the voting of any person at an election in any manner.

(*3*) Any person who contravenes the provisions of sub-section (*1*) or sub-section (*2*) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

Breaches of official duty in connection with elections.

21F. (*1*) If any person to whom this section applies is without reasonable, cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(*2*) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(*3*) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of an electoral roll, the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election ; and the expression "official duty" shall, for the purposes of this section, be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

Removal of ballot papers from polling station to be an offence.

21G. (*1*) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall, on conviction, be punished with imprisonment for a term, which may extend to one year or with fine which may extend to five hundred rupees or with both.

(*2*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (*1*) such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer :

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(*3*) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(*4*) An offence punishable under sub-section (*1*) shall be cognizable.

Other offence and penalties therefor.

21H. (*1*) A person shall be guilty of an offence if at any election he—

(*a*) fraudulently defaces or fraudulently destroys any nomination paper; or

(*b*) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(*c*) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(*d*) without due authority supplies any ballot paper to any person; or

(*e*) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(*f*) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election;

(*g*) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(*2*) Any person guilty of an offence under this section shall—

(*a*) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;

(*b*) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(*3*) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(*4*) An offence punishable under clause (*b*) of sub-section (*2*) shall be cognizable.

Prosecution in certain offences.

21I. No Court shall take cognizance of an offence punishable under section 21E or under section 21F or under clause (*a*) of sub-section (*2*) of section 21H unless there is a complaint by an order of, or under authority from, the Collector.

Election of presidents.

22. (*1*) Every local board shall be presided over by a president, elected by the board from among its own members.

Vice-presidents.

(*2*) The board shall also elect one of its members to be vice-president.

Presidents and vice-presidents not to be salaried servants of the [3][Government].

(*3*) A salaried [1][servant of the [2][Government]] shall not be elected president or vice-president of a local board and the election of any such servant as such shall be void.

[3][(*4*) If any dispute arises regarding the election of a president or vice-president of a local board, the Collector shall refer the same to the [4][State] Government. The decision of the [4][State] Government shall be final.]

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[1] The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[3] Sub-section (*4*) was added by Bom. 47 of 1949, s. 13.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Functions of presidents.

23. (*1*) The president of a local board shall—

(*a*) preside at the meetings of the board;

(*b*) watch over the financial and executive administration of the board and submit to the board all questions connected therewith which shall appear to him to require its orders;

(*c*) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 123, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances; and

(*d*) furnish to the Collector or to such other officer as the Collector shall from time to time nominate in this behalf a copy of every resolution passed at every meeting of the board and any extract from the minutes of the proceedings of the board, or other document or thing which the Commissioner, Collector or other duly authorised [1][Government officer] may from time to time call for under section 124.

Emergency powers of president.

(*2*) The president of a local board may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the local board, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the local fund:

Provided that—

(*a*) he shall not act under this section in contravention of any order of the local board prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and the reasons therefor to the standing committee at its next meeting.

Functions of vice-presidents.

24. The vice-president of a local board shall—

(*a*) in the absence of the president preside at the meetings of the board;

(*b*) exercise such of the powers and perform such of the duties of the president as the president from time to time deputes to him; and

(*c*) pending the election of a president, or during the absence of the president on leave, exercise the powers and perform the duties of the president.

Consequence of absence of president or vice-president without leave.

25. (*1*) Every president of a local board who for a period exceeding three months, and every vice-president who for a period exceeding one month, shall absent himself from the district [2]* * for which the local board is established in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president, as the case may be, unless leave so to absent himself has been granted by the board or in the case of a vice-president by the president.

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[1] These words were substituted for the words "servant of the Crown", by the Adaptation of Laws Order, 1950.

[2] The words "or taluka" were deleted by Bom. 47 of 1949, s. 14.

(2) Leave under sub-section (1) shall not be granted for a period exceeding six months, and whenever leave is granted to a president or vice-president under that sub-section, the board shall elect one of its members to exercise all the powers and perform all the duties of a vice-president in lieu of the vice-president who is exercising the powers and performing the duties of the president, or who is absent on leave during the period for which such leave is granted. Limit to the grant of leave, and arrangements pending absence of president or vice-president.

26. (1) The term of office of every president or vice-president shall cease on the expiry of his term of office as a member of the local board over which he presides : provided that he shall be removable from office, as such president or vice-president, by [1][the [2][State] Government] for misconduct, or neglect of or incapacity to perform his duty [3][and a president or vice-president so removed shall not be eligible for re-election or appointment during the remainder of the term of office of the local board]. Term of office of president and vice-president and their liability to be removed.

(2) In the event of the death, resignation, or removal from office of a president or vice-president, or of his becoming incapable of acting, or ceasing to be a member of the local board, previous to the expiry of his term of office, the vacancy, shall [4][subject to the provisions of sub-section (1)] be filled up as soon as conveniently may be by the election of [5][a member] of the board thereto : Casual vacancies in their office how to be filled up.

[6][Provided that where on account of any of the reasons aforesaid the offices of the president and vice-president become vacant simultaneously, the Collector shall, pending the election of the president, exercise the powers and perform the duties of the president.]

[7][(3) The provisions of section 27A shall be applicable so far as may be to the calling of a meeting and the procedure to be followed at such meeting for the election of a president under sub-section (2).]

27. On the expiry of the term of office of a local board the president and vice-president shall continue to carry out the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties : President and vice-president to continue to carry out certain duties until their successors take over charge.

[8]* * * * *

[9][**27A.** (1) When a new local board is constituted after a general election or otherwise, the Collector shall call a meeting for the election of a new president and vice-president. Such meeting shall be called within twenty-five days from the date on which the names of the members of the new local board are published in the *Official Gazette* under section 21, but shall not be held on a date prior to the date on which the term of office of the retiring members prescribed or extended, as the case may be, under section 28 expires, or prior to the expiry of the period for which the local board has been superseded under section 129 or prior to the date specified for the dissolution of the local board under sub-section (1) of section 131A. Procedure for election of president and vice-president.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were added by Bom. 10 of 1949, s. 5(*a*).
[4] This portion was inserted, *ibid.*, s. 5(*b*).
[5] These words were substituted for the original words, *ibid.*
[6] This proviso was added by Bom. 43 of 1955, s. 4.
[7] Sub-section (3) was substituted for the original by Bom. 32 of 1950, s. 2.
[8] The two provisos were deleted, *ibid.*, s. 3.
[9] Section 27-A was inserted by Bom. 32 of 1950, s. 4.

(2) The meeting called under sub-section (1) shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The Collector or such officer shall, when presiding over such meeting, have the same powers as the president of a local board when presiding over a meeting of the local board has, but shall not have the right to vote :

Provided that notwithstanding anything contained in section 35, the Collector or the officer presiding over such meeting may for reasons which in his opinion are sufficient, refuse to adjourn such meeting.

(3) No business other than the election of the president or the vice-president shall be transacted at such meeting.

(4) If in the election of the president or the vice-president there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the Collector or the officer presiding in such manner as he may determine.]

Term of office.

28. [1][(1)] Except as is otherwise provided in this Act or in any other law for the time being in force, members of local boards shall hold office for a term of [2][four] years extensible by order of the Commissioner to a term not exceeding in the aggregate [2][five] years if on any occasion the Commissioner shall think fit, for reasons which shall be notified, together with the order, in the [3][*Official Gazette*], so to extend the same.

[4][(2) The term of office of such members shall be deemed to commence on the day on which a meeting for the election of a new president is held under section 27A. The term of office of the outgoing members shall be deemed to expire on the day immediately preceding the day on which such meeting is held.]

28A. [*Extension of term of Office of members of local boards in Sind.*] *Repealed by Bom. 47 of 1949, s. 15.*

Resignation of office as member of board.

[5][29. (1)] The vice-president or any member of a local board other than the president may resign his office as a member of the board by giving notice in writing to the president. The president may resign his office as a member of the board by giving notice in writing to the Commissioner.

Resignation of president and vice-president.

[6][(2) The vice-president may resign his office as vice-president by giving notice in writing to the president. The president may resign his office as president by giving notice in writing to the Commissioner.]

Disqualification of member after election.

30. (1) Any member of a local board who, during the term for which he has been elected or appointed—

(a) becomes disqualified under sub-section (1) of section 9, or

(b) having any share or interest such as is described in clause (a) or (b) of sub-section (2) of section 9, acts as a member of the local board in any matter relating to a contract or agreement between the local board and the company or society or the manager or publisher of the newspaper described in the said clauses, or

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[1] Section 28 was renumbered as sub-section (1) of that section by Bom. 11 of 1954, s. 10.

[2] These words were substituted for the words "three" and "four", *ibid.*, s. 10 (a).

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] Sub-Section (2) was inserted by Bom. 11 of 1954, s. 10 (b).

[5] Section 29 was renumbered as section 29(1) by Bom. 10 of 1927, s. 3.

[6] Sub-section (2) was added, *ibid.*

(*c*) is absent for more than four consecutive months from the district [1]* * for which the board is established, unless leave so to absent himself, which shall not exceed six months, has been granted by the board, or in the case of a vice-president by the president, or absents himself for six consecutive months from meetings of the board without the leave of the board,

shall cease to be a member and his office shall become vacant:

[2][Provided that where an application is made by a member to the local board for leave to absent himself under clause (*c*) and the Board fails to inform the applicant of its decision on the application within a period of three months from the date of the application, the leave applied for shall be deemed to have been granted by the Board.]

(*2*) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

Removal of member for misconduct, etc.

31. [3][The [4][State] Government] [5]* * * * may if it [6]* * thinks fit on the recommendation of the local board, remove any member of such local board, elected or appointed under this Act, after giving him an opportunity of being heard and after such inquiry as [3][the [4][State] Government] [7]* * * deems necessary if such member has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a member of the local board.

Vacancies to whom to be communicated.

32. (*1*) On the occurrence of any vacancy in a local board the president shall forthwith communicate such occurrence to the Collector.

(*2*) [8]* * * * *

Casual vacancies how to be filled up.

33. In the event of a vacancy occurring on account of the death, resignation, disqualification, or removal of a member of a local board or through a member becoming incapable of acting, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as conveniently may be, by the election [9]* * * of a person, thereto, who shall hold office so long only as the member in whose place he is elected [10]* * would have held it if the vacancy had not occurred:

[11][Provided that notwithstanding anything contained in section 5, if the vacancy [12]* * *occurs within four months preceding the date on which the term of office of the members of the local board expires under section 28, the vacancy shall not be filled.]

34. [*Temporary provisions pending election of boards under this Act.*] *Repealed by Bom. 47 of 1949, s. 20.*

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[1] The words "or taluka" were deleted by Bom. 47 of 1949, s. 16.
[2] This proviso was added by Bom. 10 of 1949, s. 6.
[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] The words "in the case of a district local board, and the Commissioner in the case of a taluka local board", were deleted by Bom. 47 of 1949, s. 17.
[6] The words "or he" were deleted, *ibid.*
[7] The words "or the Commissioner, as the case may be", were deleted, *ibid.*
[8] Sub-section (*2*) was deleted, *ibid*, s. 18.
[9] The words "or appointment, as the case may be", were deleted, *ibid*, s. 19.
[10] The words "or appointed" were deleted, *ibid.*
[11] This proviso was inserted by Bom. 16 of 1935, s. 2.
[12] The words "be of an elected member and" were deleted by Bom. 47 of 1949, s. 19.

CHAPTER III—CONDUCT OF BUSINESS OF LOCAL BOARDS.

35. (*1*) A local board shall meet together not less than once in every three months and shall from time to time make regulations, consistent with this Act and with any rules or orders made by [1][the [2][State] Government] in this behalf under clause (*c*) of section 133 with respect to the place, day, hour, notice, management and adjournment of such meetings and generally with respect to the transaction of business, as it thinks fit, subject to the provisions of the following sub-sections. Meetings of local boards.

(*2*) (*a*) The president shall fix the dates for the quarterly meetings hereinbefore prescribed and may whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members and for a date within twenty-one days from the receipt of such request, call a special meeting.

(*b*) [3][Fifteen] clear days' notice of a quarterly meeting and [4][ten] clear days' notice of a special meeting specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be circulated to the members and posted up at the local board office. Such notice shall include in the case of a special meeting any motion or proposition mentioned in any written request made for such meeting.

(*c*) If less than one-third of the whole number of members be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such hour on the following or some other future day as he may reasonably fix; a notice of such adjournment shall be fixed up in the local board office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof, whether there be a quorum present or not.

(*d*) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

(*e*) Every meeting shall be presided over by the president, or he be absent, by the vice-president, and if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion.

(*f*) All questions shall be decided by a majority of votes of the members present the president, vice-president or chairman, as the case may be, having a second, or casting vote in all cases of equality of votes.

(*g*) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof no business shall be transacted and no proposition shall be discussed at any quarterly meeting unless it has been entered

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] The word "Fifteen" was substituted for the word "Twenty-one" by Bom. 8 of 1934, s. 2.
[4] The word "ten" was substituted for the word "fourteen", *ibid.*

in the notice convening such meeting or, in the case of a special meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

(*h*) Any quarterly meeting may, with the consent of a majority of the members present, be adjourned from time to time ; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

(*i*) No resolution of a local board shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of members and passed at a quarterly meeting, whereof notice shall have been given fulfilling the requirements of clause (*b*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

(*j*) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed, or which under section 45 may only be executed for the board by the Government Executive Engineer of the district, or to any educational matter, shall be transacted, at any meeting of a local board, unless at least fifteen days previous to such meeting a letter has been addressed to an officer of the Government Public Works and Educational Departments, respectively,—who is not a member of the board, but is entitled under section 40 to be present at such meeting informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business.

(*k*) Minutes shall be kept of the names of the members and of the Government officers, if any, present under the provisions of section 40 and of the proceedings at each meeting of the board, and if any member present at the meeting so desire, of the names of the members voting respectively, for or against any resolution, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president, vice-president or chairman of such meeting and shall at all reasonable times be open to inspection by any member of the board or by any inhabitant of the district.

[1]* * * * * * *

Vacancy not to affect proceedings of board or committee.

(*3*) During any vacancy in a local board the continuing members may act as if no vacancy had occurred.

Acts of board, etc., not to be invalidated by informalities.

(*4*) No act of a board, or of any person acting as a member or as a president, vice-president or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such board, president, vice-president, chairman, or member, or on the ground that they or any of them, were disqualified for the office

[1] Clause (*l*) was deleted by Bom. 47 of 1949, s. 21.

of member, or that formal notice of the intention to hold a meeting of the board was not duly given, or for any other such mere informality.

Standing Committee.

36. [1][(*1*) Every local board shall appoint a standing committee, consisting of such number of members not being more than nine and not less than five as the board may determine :

Provided that in the case of a local board having forty-five or less number of members the standing committee shall consist of not more than seven members.]

(*2*) The standing committee shall perform the functions allotted to it under this Act, and subject to any limitations or other provisions contained in rules made under section 133, clause (*c*) or regulations made under section 35, sub-section (*1*), shall exercise all the powers and perform all the duties of the local board which have not been delegated to any other committee.

(*3*) The president shall be *ex officio* a member and chairman of the standing committee in addition to the members appointed under sub-section (*1*).

Public Health Committee.

37. (*1*) Every district local board may appoint a public health committee, consisting of such members of the board as the board may elect. The said members may co-opt the Civil Surgeon of the district or any medical or sanitary [2][Government Officer] or a legally qualified medical practitioner to be a member of the committee for a period not exceeding the term of their own office.

(*2*) Such committee shall, subject to any limitations or other provisions contained in rules made under clause (*c*) of section 133 or regulations made under sub-section (*1*) of section 35, perform the duties and exercise the powers of the district local board in regard to matters of public health and sanitation, and shall give effect to the provisions of this Act and to any bye-laws framed under this Act.

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[1] This sub-section was substituted for the original by Bom. 2 of 1951, s. 2.
S. 4 of Bom. 2 of 1951 reads as under :—

"4. *Saving*—Nothing in section 2 shall affect the constitution of the standing committee of any local board as appointed under the said Act immediately before the coming into operation of this Act and any casual vacancy in the office of a member of such committee before the expiry of its term shall, subject to the provisions of the said Act, be filled as if this Act had not been passed ".

[2] These words were substituted for the words "servant of the Crown " by the Adaptation of Laws Order, 1950.

regarding such matters and may delegate any of its duties or powers to any member or honorary or stipendiary officer of the board. Such member or officer shall conform to any instructions that may from time to time be given by the board. The Committee may at any time withdraw any of the duties or powers so delegated.

Other executive committees

38. (*1*) A local board may appoint committees consisting of such members as the local board may decide or any member or honorary or stipendiary officer of the board to exercise the powers and perform the duties of the local board in respect of any purpose subject to any limitations and provisions contained in rules made under section 133 (*c*) or regulations made under section 35 (*1*) ; not being where a public health committee has been appointed, powers or duties referred to in section 37, sub-section (*2*).

(*2*) Where a committee is appointed to manage a dispensary, the local board may appoint any local residents to be members of such committee.

(*3*) Any such committee, member or officer shall comply with any instruction that may from time to time be given by the board.

(*4*) The board may at any time discontinue or alter the constitution of any such committee or withdraw any of the powers or duties which any such committee, person or officer has been appointed to exercise or perform.

[1][**38A.** (*1*) [2]* * * * * *

[7]* * Appointment of taluka committees.

[3]*(*2*) * [4][The Provincial Government] may, on an application made by the district local board or otherwise, by a notification in the [5][*Official Gazette*] direct that a taluka committee shall be appointed from a date to be specified in the notification for the area [6][specified therein].

(*3*) On the publication of the notification under sub-section (*2*), the district local board shall appoint a taluka committee in accordance with the provisions of sub-section (*4*).

(*4*) A taluka committee shall consist of such number of members not being less than seven as shall be prescribed by an order made under clause (*cc*) of section 133. Every member of the district local board resident within the area for which a taluka committee is appointed shall be *ex-officio* a member of the taluka committee and the remaining members of the taluka committee shall be appointed by the district local board from among persons resident in the said area in a manner prescribed by rules made under clause (*cc*) of section 133.

(*5*) A taluka committee shall, subject to any limitations or other provisions contained in rules made under clause (*cc*) of section 133 or regulations made under sub-section (*1*) of section 35, exercise such powers and perform such duties of supervision and advice as may be assigned to it by the district local board.

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[1] Section 38A was inserted by Bom. 6 of 1935, s. 3.
[2] Sub-section (*1*) was deleted by Bom. 47 of 1949, s. 22 (*1*).
[3] The words, brackets and figure "Where a taluka local board is abolished under sub-section (*1*)" were deleted *ibid*, s. 22 (*2*) (*a*).
[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid*,
[6] The words "specified therein" were substituted for the words "which was subject to the authority of such taluka local board" by Bom. 47 of 1949, s. 22 (*2*) (*b*).
[7] The words "Abolition of taluka local boards and" were deleted, *ibid*, s. 22 (*3*).

(*6*) The provisions of sections 39 to 41 shall so far as may be, apply to a taluka committee.]

Committees. Term of Office. Vacancies. Chairman. Procedure. Meetings. Adjournments. Quorum.

39. (*1*) The term of office of the members of a committee shall expire on the termination of one year from the date of appointment of the members or on such earlier date as the local board may direct.

(*2*) A vacancy occurring in any committee shall, as soon as possible be filled up by the appointment or co-option, as the case may be, of a member thereto. A member appointed under this sub-section shall hold office so long only as the person in whose place he is appointed would have held if the vacancy had not occurred.

(*3*) (*a*) The president or vice-president, if appointed a member of any committee, shall be *ex-officio* chairman thereof.

(*b*) A local board may appoint a chairman for a committee of which there is no *ex-officio* chairman.

(*c*) A committee of which there is an *ex-officio* chairman or a chairman appointed by the local board, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting.

(*d*) A committee, of which there is no *ex-officio* chairman or chairman appointed by the local board, shall appoint from time to time a chairman from the members of such committee.

(*4*) The provisions of section 35, sub-section (*2*), clauses (*f*), (*j*) and (*k*) and sub-sections (*3*) and (*4*), shall apply to committees as if the word "committee" had been substituted for the words "board" or "local board".

(*5*) A committee may meet and adjourn as it thinks proper; but the chairman of a committee may whenever he thinks fit, and shall upon the written request of the president of the local board or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

(*6*) No business shall be transacted at any meeting of a committee unless more than one-half of the members of the committee be present thereat.

Certain Government officers may attend meetings of district local boards.

40. (*1*) The Executive Engineer, the Educational Inspector and the [1][District Health Officer] and the Civil Surgeon of a district, when charged with any of the duties of a health officer therein, [2] * a Deputy Director of Agriculture or an Assistant Registrar of Co-operative Societies charged with any duties of his office in the district, if not members of the district local board, [3][and, in the case of educational matters, when the chairman of the school board is not a member of the district local board, such chairman or the vice-chairman or the administrative officer of the school board or, when the chairman is a member of the district local board but is for any reason unable to be present, the vice-chairman or the administrative officer of the school board,] shall have the right of being present at any meeting of the said board, or of any committee thereof, and with the consent of the board or committee, each of them may take part at such meetings in the discussion or consideration of any question on which in virtue of the duties of his office he considers his opinion or the information which he can supply will be useful to such board or committee: provided that the said [4][persons] shall not, unless they are members of the board, be entitled to vote upon any such question.

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[1] The words "District Health Officer" were substituted for the words "Deputy Director of Public Health" by Bom. 47 of 1949, s. 23 (*1*).

[2] The word "and" was repealed by Bom. 10 of 1927, s. 4 (*i*).

[3] These words were inserted, *ibid.*, s. 4 (*ii*).

[4] The word "persons" was sustituted for the word "officers", *ibid.*, s. 4 (*iii*).

(*2*) * * * * * *

(*3*) If it shall appear to a district local board [2]* * * that the presence of any of the above officers [3]* is desirable in the circumstances aforesaid at any future meeting of such board, or of any committee thereof, it shall be competent to such board by letter addressed to such officer not less than fifteen days previous to the intended meeting to require his presence thereat; and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting. Local boards may require the presence of the said officers at their meetings.

41. (*1*) Whenever it appears to the president of a local board, or to the chairman of a committee unnecessary to convene a meeting, he may instead of so doing circulate a written proposition of his own, or of any other member of such board or committee, or of any executive officer of the board for the observations and votes of the members. President may circulate written propositions.

(*2*) Previous to circulating any such proposition for the votes of members the president or chairman may, if he thinks fit, and if the business to which it relates is of the nature described in clause (*j*) of sub-section (*2*) of section 35 shall obtain thereupon the remarks, if any, which any Government officer, not a member of the board, who is entitled under the provisions of section 40 to be present at any meeting at which such proposition might be considered, desires to record.

(*3*) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members who vote upon it, unless a special meeting is convened to consider the proposition under clause (*a*) of sub-section (*2*) of section 35 or sub-section (*5*) of section 39.

(*4*) Every decision arrived at by the board under this section shall be recorded in the minute-book kept under clause (*k*) of sub-section (*2*) of section 35 or sub-section (*4*) of section 39.

42. (*1*) The president of a local board may, on behalf of the board, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: provided that the amount or value of such contract or agreement shall not exceed five hundred rupees [4]* * * Mode of executing contracts.

(*2*) Every other contract or agreement on behalf of a local board shall be in writing, and shall be signed by the president and by two other members of the board, and sealed with the common seal of the board.

(*3*) No contract or agreement not executed as in this section provided shall be binding on a local board.

43. (*a*) Except as is hereinafter otherwise provided, no member of a local board shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of such board; the local fund at the disposal of each local board shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses: Local funds ordinarily liable for all costs and expenses incurred by boards.

[1] Sub-section (2) was deleted by Bom. 47 of 1949, s. 23 (*2*).
[2] The words " or to a taluka local board " were deleted *ibid*, s. 23 (*3*).
[3] The word " respectively " was deleted, *ibid*.
[4] The words " in the case of a district local board, or two hundred rupees in the case of a taluka local board " were deleted, *ibid*, s. 24.

But members to be held responsible for misapplied or wasted funds and property.

(*b*) Provided that every member of a local board shall be personally liable for the misapplication of any money or other property of the local board, to which he has been a party or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member and may be sued by the local board concerned, with the sanction of [1][the Provincial Government] or by [1][the Provincial Government] for recovery of or compensation for the misapplication of such money or property; and any money or property so recovered by [1][the Provincial Government] shall after satisfaction therefrom of the necessary expenses of such recovery, be delivered to the local board

Power to compromise.

44. (*1*) A local board may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(*2*) A local board may make compensation out of the local fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

Works to be executed by the Government Executive Engineer.

45. (*1*) Such of the works for which plans and estimates prepared or approved by the Government Executive Engineer of the district are required by clause (*b*) of sub-section (*1*) of section 89 as [1][the Provincial Government] shall from time to time by a general or special order direct, shall be executed by the said Executive Engineer, who for this purpose shall exercise the same powers as if he were executing a work for [1][the Provincial Government], and shall have control over all officers and servants of the local board, if any, assisting in the execution of any of the said works.

Works which may be executed by other agency.

(*2*) All other works shall be executed by such agency and subject to such supervision as the local board at whose cost any such work is to be executed thinks fit: provided that any such work shall be executed by the Government Executive Engineer of the district in the manner described in sub-section (*1*) if the said board communicates a desire to that effect.

Payment of Government establishment employed by Government Executive Engineer.

(*3*) When any work is executed under this section by a Government Executive Enginer either wholly or partly with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed as shall be agreed upon between such board and the said Executive Engineer: provided that no charge shall in any case be made on account of the services of the Executive Engineer.

Repairs not to be commenced without plans and estimates.

[2][**45A.** No work of repairs shall be commened unless a detailed estimate of the cost of such work has been approved by the local board and in the case of a work of which the total cost is to exceed three thousand rupees, plans and estimates have either been prepared or approved by the Government Executive Engineer of the district, or by an Engineer employed by the board and approved by [1][the Provincial Government].]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] Section 45A was inserted by Bom. 10 of 1927, s. 5.

Joint committees of two or more local bodies.

46. (*1*) A district local board may, from time to time, concur with any other district local board or with any municipality or cantonment [1][authority], or with more than one such local board, municipality or [1][authority]—

(*a*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee ; and

(*b*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies ; and

(*c*) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

[2][(*1A*) A district local board may from time to time enter, subject to the sanction of [3][the Provincial Government], into an agreement with a district local board, municipality [4][or cantonment authority] or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.]

Explanation.--For the purpose of this sub-section, octroi duty includes a terminal tax.

(*2*) Where [5][a district local board] has requested the concurrence of any other local authority under the provisions of sub-section (*1*) [6][or (*1A*)] in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit requiring the concurrence of such other local authority, not being a cantonment [7][authority], in the matter aforesaid and such other local authority shall comply with such orders.

(*3*) If any difference of opinion arises between local bodies [8][acting under this section] the decision thereupon of [9]* * * [3][the Provincial Government], [10][or of such officer as it appoints in this behalf] shall be final :

[11][Provided that, where one of the local bodies is a cantonment authority, the decision of the Provincial Government, or of the officer, shall be subject to the concurrence of the Central Government.]

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[1] The word " authority " was substituted for the word " Committee " by Bom. 14 of 1934, s. 3 (*1*) (*i*).

[2] This sub-section was inserted, *ibid*, s. 3 (*1*) (*ii*).

[3] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[4] The words " or cantonment authority " were substituted for the words " cantonment authority or committee appointed for a notified area " by Bom. 47 of 1949, s. 25.

[5] The words " a district local board " were substituted for the words " any local authority " by Bom. 14 of 1934, s. 3 (*1*) (*iii*) (*a*).

[6] The word, figure, letter and brackets " or (*1A*) " were inserted, *ibid*, s. 3 (*1*) (*iii*) (*b*).

[7] The word " authority " was substituted for the words " Committee " *ibid*, s. 3 (*1*) (*iii*) (*c*).

[8] The words " acting under this section " were substituted for the words, figures and brackets " having concurred in any action under sub-section (*1*) or (*2*), in respect of any matter arising out of such action ", *ibid*, s. 3 (*1*) (*iv*) (*a*).

[9] The words " the Commissioner, if the local bodies are in one division, and of " were deleted, *ibid*, s. 3 (*1*) (*iv*) (*b*).

[10] The words " or of such officer as it appoints in this behalf " were substituted for the words " if they are in different divisions ", *ibid*, s. 3 (*1*) (*iv*) (*c*).

[11] This proviso was inserted by the Adaptation of Indian Laws Order in Council.

CHAPTER IV—INCORPORATION OF LOCAL BOARDS, PROPERTY, POWERS AND DUTIES.

Incorporation of local boards.

47. Every local board shall be a body corporate by the name of "The District Local Board of " [1]* * * and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable, whether within or without the limits of the area over which it has authority, to lease, sell or otherwise transfer any moveable or immovable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes of this Act :

Provided that no lease of immovable property for a term exceeding seven years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner.

Vesting of future local works.

48. Every road, building or other work constructed by a local board shall vest in such local board.

49. [*Power to decide whether property vests in taluka or district board.*] *Repealed by Bom. 47 of 1949, s. 27.*

Obligatory duties.

50. It shall be the duty of local boards, so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely :—

(*a*) the construction of roads and other means of communication and the maintenance and repair of all roads and other means of communication vesting in them ;

(*b*) the construction and repair of hospitals, dispensaries, markets, dharmasalas and other public buildings and the visiting, management and maintenance of these institutions ;

(*c*) the construction and repair of public tanks, wells and water-works, the supply of water from them and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution ;

[2][(*d*) the provision for primary education in the district and its expansion ;]

(*e*) public vaccination, and sanitary works and measures necessary for the public health ;

(*f*) the planting and preservation of trees by the side or in the vicinity of roads vesting in such boards ;

(*g*) the maintenance of any property vesting in them ; and

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[1] The words " or, ' The Taluka Local Board of ' as the case may be " were deleted by Bom. 47 of 1949, s. 26.

[2] Clause (*d*) was substituted for the original, *ibid*, s. 28.

(*h*) the payment at such rates and subject to such conditions as [1][the [2][State] Government] from time to time by general or special order may direct of the expense of maintenance and treatment in any institution which [1][the [2][State] Government] declares by notification to be suitable for such purpose, either within or without the district, and other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institutions, and proceeding to and returning from such institutions ; and local boards may at their discretion provide out of the said fund for the following matters, namely :— Discretionary powers of expenditure.

(*i*) the payment to members of the board of expenses incurred in travelling for the purpose of the business of the board, in accordance with rules made in this behalf under clause (*d*) of section 133, provided that no such payment shall be made to a salaried [3][servant of the [4][Government] [5][who is in receipt of travelling allowances as such [6]* * *];

(*j*) the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of superior kinds of seed, the improvement of the breed of cattle and horses, the introduction and preservation of fish and the advancement and improvement of agriculture and local industries ;

(*k*) the establishment and maintenance of relief and local relief works in time of famine or scarcity ;

(*l*) educational objects other than those set forth in clause (*d*) of this section ;

(*m*) the construction, management and maintenance of light-railways and tramways ;

[7][(*mm*) the construction, maintenance, management, organisation or purchase of telephone lines, or the guaranteeing of payment of interest on money expended for the construction of a telephone line, provided however, that, when the line extends beyond the limits of the area subject to the authority of the local board, the previous sanction of the Commissioner is necessary ;]

[8][(*mm-i*) promoting the well being of employees of the local board or any class of such employees and of their dependents ;]

(*n*) any other local works or measures likely to promote the health, safety, comfort or convenience of the public ; and

(*o*) with the previous concurrence of the Collector, any public reception, ceremony, entertainment or exhibition.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[5] These words were added by Bom. 5 of 1928, s. 2.
[6] The words "Government servant" were omitted by the Adaptation of Indian Laws Order in Council.
[7] Clause (*mm*) was inserted by Bom. 10 of 1927, s. 6.
[8] Clause (*mm-i*) was inserted by Bom. 32 of 1950, s. 5.

Power of district local board to construct other works and manage other institutions.

[1][**50A.** It shall be lawful for a district local board to undertake upon such terms and conditions as may be agreed upon, the construction, maintenance or repair of any work or the management of any institution on behalf of [2][the Central or the [3][State] Government] or any other local authority or the Court of Wards.]

51. [*Relative duties of taluka and district local boards.*] *Repealed by Bom. 47 of 1949, s. 29.*

CHAPTER V—Sanitary and other Powers.

Power to enter and inspect, etc. buildings.

52. The president of the district local board, or any person authorized by the said board in this behalf, may at any time between sunrise and sunset, on giving notice in the manner hereinafter provided, enter into and inspect all buildings and lands, and by written notice direct that all or any part thereof shall be cleansed, cleared or otherwise put in a proper state for sanitary reasons.

Filthy buildings, etc.

53. Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy or unwholesome state, or, in the opinion of the district local board, a nuisance to persons residing in the neighbourhood, or overgrown with prickly pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing from any person authorized by the district local board in this behalf to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall on conviction before a Magistrate be liable to a fine not exceeding rupees twenty-five and if the offence be a continuing one to a further fine not exceeding rupees five for every day during which the said offence is continued after conviction.

Powers and duties with regard to sources of water-supply.

54. The president of the district local board or any person authorized by the said board in this behalf may at any time by written notice require that the owner of or any person who has control over, any well, stream, channel, tank, or other source of water-supply shall, whether it is private property or not,

(*a*) if the water is used for drinking—

(*i*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*ii*) within a reasonable time to be specified in the notice, cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*iii*) in such manner as the board directs, protect any such source of water supply from pollution by surface drainage, or

(*iv*) desist from using and from permitting others to use for drinking purposes any such source of water-supply, which not being a stream in its natural flow, is in the opinion of the board unfit for drinking, or

(*v*) if notwithstanding any such notice under sub-clause (*iv*) such use continues and cannot in the opinion of the board be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the board considers sufficient to prevent such use, such source of water-supply, or

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[1] Section 50A was inserted by Bom. 16 of 1935, s. 3.

Section 50A was inserted by Bom. 16 of 1935, s. 3.

[2] The words "the Central or the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*vi*) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto any stagnant water which the board considers it injurious to health or offensive to the neighbourhood ;

(*b*) within twenty-four hours of such notice, repair, protect or enclose in such manner as the board may direct or approve, any such source of water-supply, whether used for drinking purposes or not, other than a stream in its natural flow, is for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the board dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same.

Remedy on non-compliance with directions issued.

55. If the owner or the person having control as aforesaid fails or neglects to comply with any such requisition within the time required by or under the provisions of section 54 the district local board may, and, if in the opinion of the president immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice, and all the expenses incurred thereon shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII :

Provided that in the case of any well or private stream or any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by such owner or person having control may, if the district local board so directs, be paid from the portion of the local fund at the disposal of such board.

Power to set apart public springs, etc., for certain purposes.

56. (*1*) The district local board may by public notice, which shall be put up at the spring, tank, well or other place concerned and otherwise as required by this Act, set apart public springs, tanks, wells and other places and parts of public water courses for drinking purposes or for bathing or for washing clothes or animals or any other purpose calculated to promote the health, cleanliness, comfort or convenience of the inhabitants ; and with the consent of the owners, may also set aside any private springs, tanks, wells or other places for any of the aforesaid purposes.

Power to prohibit use of water from certain sources.

(*2*) The district local board may, during epidemics, on receipt of a certificate from any medical officer in the employ of the board or of the [1][Crown] stating that such action is desirable, summarily by notice prohibit the use of water from any source to which the public have access. Such notice shall be served by putting up a copy thereof near the source of water-supply or by beat of drum, stating the number of days during which such prohibition shall last. The district local board may extend or modify the notice from time to time without the production of a further certificate.

Penalty for using places set apart for other purposes.

57. Whoever—

(*a*) bathes in or defiles the water in any place set apart for drinking purposes by the board, or in the case of private property by the owner thereof, or

(*b*) deposits any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes, or

(*c*) washes clothing in any place set apart as aforesaid for drinking or bathing, or

[1] The word "Crown" was substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*d*) washes any animal or any cooking utensils or wool, skins or other foul or offensive substance, or deposits any offensive or deleterious matter in any place set apart as aforesaid for drinking purposes or bathing or washing clothes, or

(*e*) allows the water from a sink, sewer, drain, engine or boiler, or any other offensive matter belonging to him or flowing from any building or land belonging to or occupied by him, to pass into any place set apart as aforesaid for drinking purposes or for bathing or for washing clothes,

shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees fifty, and if the offence be a continuing one, to a further fine not exceeding rupees ten for every day during which the said offence is continued after conviction.

Abatement of nuisance from foul water.

58. When any pool, ditch, tank, pound, well, hole or any waste or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter, whether the same be within any private enclosure or otherwise, shall appear to the district local board to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the district local board may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall in its opinion, be necessary to abate or remove the nuisance.

Closing of places for the disposal of the dead.

59. (*1*) If the district local board is of opinion that any place in the district which is used for the disposal of the dead is in such a state as to be, or to be likely to become injurious to health, it may submit its opinion, with the reasons therefor to the Commissioner. The Commissioner may thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the notification.

(*2*) A copy of the said notification with a translation thereof in the [1][regional language] of the district, shall be published in the local newspapers, if any, and shall be posted up at the district local board office and in one or more conspicuous spots on or near the place to which it relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place after the date specified in the said notification for closure thereof or buries any corpse in any unoccupied [2][Crown] land not set aside for the burial of the dead under the provisions of any law for the time being in force or by established usage, shall on conviction before a Magistrate be liable to a fine not exceeding rupees one hundred.

President, etc., to have power of entry for inspection into buildings, etc., where infectious disease exists.

60. (*1*) The president of any district local board or any person authorized by the board in this behalf, may enter at any time, after reasonable notice, into any building or premises in which any dangerous infectious disease is reputed or suspected to exist for the purpose of inspecting such building or premises.

Inspection to be made between sunrise and sunset.

(*2*) No such inspection shall be made except between sunrise and sunset.

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[1] The words "regional language" were substituted for the word "vernacular" by Bom. 47 of 1949, s. 30.

[2] The word "Crown" was substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Disinfection of buildings, etc.

(*3*) If the district local board is of opinion that the cleansing or disinfecting of a building or premises or of a part thereof, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, it may by notice require the owner or occupier to cleanse or disinfect the same within a time to be specified in such notice: provided that if the board considers that immediate action is necessary or that the owner or occupier is, by reason of poverty or otherwise, unable effectually to comply with its requisition, the board may itself cause such building or premises or articles to be cleansed or disinfected, and for this purpose may cause such articles to be removed from such building or premises; and the expenses incurred by the board under this sub-section shall be recoverable from the said owner or occupier unless he was, by reason of poverty, unable effectually to comply with its requisition.

District local board to notify places for washing and disinfecting articles, exposed to infection. Infected articles may be destroyed

61. (*1*) The district local board shall, from time to time, notify places at which articles of clothing or bedding or other articles which have been exposed to infection from any dangerous infectious disease may be washed or disinfected.

(*2*) The district local board may direct the destruction of clothing, bedding or other articles likely to retain such infection, and shall on demand give compensation for the articles destroyed.

Penalty.

(*3*) Whoever washes such clothing or bedding or other articles at any place other than those set apart for such purposes under sub-section (*1*), shall on conviction before a Magistrate be liable to a fine not exceeding rupees fifty.

Obstructions and encroachments upon public roads, land or building.

[1][**61A.** (*1*) Whoever on any part of a public road, land or building, after it has vested in, or has become the property of, a local board, shall build, or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or shall deposit, or cause to be placed or deposited, any box, bale, package or merchandise or any other thing on any part of any such road, land or building, or in, or over, or upon, any open drain, gutter, sewer or aqueduct in such road, land or building, shall be punished with fine which may extend to twenty-five rupees.

(*2*) The local board shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII:

Provided that, before proceeding to remove any such obstruction or encroachment, the local board shall by written notice call upon the person who has caused such obstruction or encroachment to remove it within a reasonable time to be specified in the notice, or to show cause why the same should not be removed.

(*3*) Nothing contained in this section shall prevent a local board from allowing any temporary occupation of or erections on any public road, which vests in it or is its property, on occasions of festivals and ceremonies, or for the piling of fuel on any part of such road for not more than [2][fifteen days] and in such manner as not to inconvenience the public or any individual.

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[1] Section 61A was inserted by Bom. 10 of 1927, s. 7.

[2] The words "fifteen days" were substituted for the words "a week" by Bom. 16 of 1933, s. 3 (*a*).

[1][(*4*) Notwithstanding anything contained in section 47, it shall be competent to a local board to lease or to permit a temporary use of land forming part of a public road when such land is not, in the opinion of the local board, required for a public road or for any other of the purposes of this Act, for a period not exceeding seven years :

Provided that, if the lease or permit does not exceed one year, the previous sanction of the Collector, and if the lease or permit exceeds one year but does not exceed seven years, the previous sanction of the Commissioner, shall have been obtained to such lease or permit].

Powers of inspection of weights and measures, etc.

[2][**61B.** The president, vice-president, or any councillor or officer authorized by the local board in this behalf may at all reasonable times enter into any place [3][(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for the purpose of trade and inspect such weights or measures or weighing or measuring instruments.] Bom. XV of 1932.

District local board empowered to make by-laws.

62. (*1*) The district local board may, from time to time, with the sanction of the Commissioner, make by-laws and cancel or alter the same :—

(*a*) for the general or special regulation, control or prohibition of the use of markets, dairies, creameries, grainaries, grainshops, slaughter houses, cart-stands burial and burning grounds, offensive trades, and all matters connected with conservancy ;

(*b*) for regulating the use of public roads and the traffic thereon ; and for securing cleanliness, safety and order in respect of the same ; and

(*c*) for carrying out all the purposes of this Act,

and may impose fines and penalties for the infringement of such by-laws.

Infringement of by-laws.

(*2*) No by-law shall be repugnant to any law in force, and no fine for any one infringement shall exceed rupees fifty : provided that in the case of a continuing infringement the offender may by any by-law be made liable to further fine not exceeding rupees ten for every day during which such infringement is continued after conviction.

Confirmation of by-laws.

(*3*) No by-law or cancellation or alteration of a by-law shall have effect until the same has been approved and confirmed by [4][the Provincial Government.]

By-laws to have the force of law.

(*4*) All by-laws when they have been duly confirmed shall have the force of law.

Service of notices, etc., addressed to individuals.

63. The service of every notice and the presentation of every bill under this Act on any person or to any person to whom it is by name addressed shall, in all cases not otherwise specially provided for in this Act, be effected by a district local board officer or servant or other person authorized by the district local board in this behalf, or on such terms as may be agreed upon, by any officer or [5][servant of the Crown]—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed ; or

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[1] This sub-section was added by Bom. 16 of 1933, s. 3 (*b*).

[2] This section was inserted by Bom. 15 of 1932, Second Schedule, Pt. I.

[3] These words, figures and brackets were inserted by Bom. 9 of 1935, s. 6 (*1*).

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] The words "servant of the Crown" were substituted for the words "servant of the Government", *ibid.*

(*b*) if such person is not found by leaving the notice or bill at his last known place of abode, if within the district, or by giving or tendering the notice or bill to some adult male member or servant of his family ; or

(*c*) if such person does not reside within the district, and his address elsewhere is known to the president or other person directing the issue of the notice or bill, then by forwarding the notice or bill to such person by registered post under cover bearing the said address ; or

(*d*) if none of the means aforesaid be available then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

Service of notices on owners or occupiers of buildings and lands.

64. When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier, or if there be more owners or occupiers than one, to any one of them ; or

(*b*) if no such owner or occupier be found, then by giving or tendering the notice to some adult male member or servant of the family of any such owner or occupier as aforesaid ; or

(*c*) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

65. Every notice which this Act requires or empowers a district local board to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the district local board office during such period and in such other public buildings and places, or is published in such local papers or in such other manner as the district local board in by-laws in this behalf directs.

Defective form not to invalidate notice.

66. (*1*) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(*2*) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*3*) In the event of non-compliance with the terms of the notice the district local board may take such action or such steps as may be necessary for the doing of the act thereby required to be done, and all the expenses thereby incurred by the district local board shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 69.

Punishment for disobedience of orders and notices not punishable under any other section.

67. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a district local board under any power conferred by this Chapter, or fails to comply with the conditions subject to which any permission was given to him by the district local board under any power so conferred, shall, on conviction before a Magistrate if the disobedience or failure is not an offence punishable under any other section, be liable to a fine not exceeding rupees fifty and to a further fine not exceeding rupees five for every day during which the said disobedience or failure continues after conviction :

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

District local board in default of owner or occupier may execute works and recover expenses.

68. (*1*) Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such work, the district local board, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the district local board may seem fit.

Power to levy charges on occupier, who may deduct the sum from his rent.

(*2*) If the defaulter be the owner of the building or land, the district local board may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being, from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier; and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglet or refuse, upon application made to him for that purpose by the district local board, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of the expense of any such works as aforesaid.

Expenses or costs how determined and recovered.

69. If a dispute arises with respect to any expenses or costs which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the district local board, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

District local board may prosecute.

70. (*1*) The district local board may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, or of any by-law thereunder, and may order the expenses of such prosecutions or other proceedings to be paid out of the local fund:

Provided that no prosecution for an offence under this Act or of any by-law thereunder shall be instituted except within six months next after the commission of such offence.

(2) Any prosecution under this Act or under any by-law thereunder may, save as therein otherwise provided, be instituted before any Magistrate, and every fine or penalty imposed under or by virtue of this Act or any by-law thereunder, and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to such Magistrate, by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimed. Jurisdiction of Magistrate.

71. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of any local board shall have been caused by such person, he shall be liable to make good such damage as well as to pay such penalty, and the value of the damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such value on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly. Damage to any local board property how made good.

72. [1][In lieu of any process of recovery allowed by or under this Act or in case of failure to realise by such process] the whole or any part of any amount recoverable under the provisions of Chapter VIII or of any compensation, expenses, charges or damages awarded under this Act, the district local board may sue in any Court of competent jurisdiction the persons liable to pay the same, as also any other person who may have in any way caused any injury to any property, rights or privileges of the district local board. Alternative procedure by suit.

73. (1) Any police officer may arrest any person committing in his presence any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person be unknown to him, and if he declined to give his name and address, or if the police officer have reason to doubt the accuracy of such name and address if given, and such person may be detained at the station house until his name and address shall be correctly ascertained : Powers of police officers.

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(2) It shall also be the duty of all police officers to give immediate information to the president or an officer of the local board of the commission of any offence against the provisions of this Act or of any by-law thereunder, and to assist all local board officers and servants in the exercise of their lawful authority.

CHAPTER VI—Revenue and Expenditure.

74. (1) There shall be in each district a fund which shall be called the local fund. Local fund, its custody and investment.

(2) [2][The local fund shall be kept—

(a) in the Government treasury or in the bank to which the business of the Government treasury has been made over;

[1] These words were substituted for the original by Bom. 10 of 1949, s. 7.

[2] This portion was substituted for the portion beginning with the words "the local Fund" and ending with the words "and may be approved by the State Government" by Bom. 11 of 1954, s. 11 (1). This amendment has effect from the 20th day of November 1951, *see* Bom. 11 of 1954, s. 11 (2).

(*b*) in any bank included in the Second Schedule to the Reserve Bank of India Act, 1934, subject to such conditions as the State Government may specify in this behalf; or

(*c*) in such co-operative society, registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925, as may be approved by the State Government :] Bom. VII of 1925.

Provided that the district local board may from time to time, with the previous sanction of [1][the [2][State] Government] [3]* * * * invest any portion of the fund in securities of the [4][Central Government] or such other securities as the [5][[2][State] Government] may approve in this behalf, and vary such investments for others of the like nature; and the income resulting from the securities and proceeds of the sale of the same shall be credited to the local fund.

Income of local fund.

75. The following shall form part of, or be paid into, the local fund :—

(*a*) the balance of the local fund of the district at the commencement of this Act;

(*b*) the net proceeds (after deducting the expenses of assessment and collection) of any residue of the cesses payable in the district under the [6]* * * * [7]Bombay Local Funds Act, 1869; Bom. III of 1869.

(*c*) the net proceeds (after deducting the expenses of assessment and collection) of the cesses in the district authorized by sections 93 and 95;

[8][(*cc*) the balance of the amount of the tax on professions, trades, callings and employments after deducting such percentage thereof as is to be assigned to a village panchayat under clause (*b*) of sub-section (*1*) of section 102C;]

[9][(*d*)* * * * *

(*e*) all rents and profits accruing from property (including ferries) [10]* * * * * * * * * vested in a local board;

(*f*) the net proceeds (after deducting the expenses of collection) of all tolls and leases of tolls on roads and bridges vested in the local board which are levied in the district under the Tolls on Roads and Bridges Act, 1875; Bom. III of 1875.

[9](*g*) * * * * * *

[9](*h*) * * * * * *

[9](*i*) * * * * * *

(*j*) all sums received by a local board in the execution of, or from taxation under this Act, and the interest on and the sale proceeds of any securities held by such board;

(*k*) all sums contributed by private persons;

(*l*) the proceeds of any fisheries vesting in a local board;

(*m*) the receipts on account of charities and trusts placed under the management of a local board; and

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[1] The words "Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "and subject to any general or special orders of the Governor General in Council" were omitted by the Adaptation of Indian Laws Order in Council.

[4] The words "Central Government" were substituted for the words "Government of India", *ibid.*

[5] The words "Provincial Government" were substituted for the words "Governor General in Council", *ibid.*

[6] The words and figures "Sind Local Funds Act, 1865, and" were deleted by Bom. 47 of 1949, s. 32.

[7] This Act has been repealed by Bom. 6 of 1923, s. 2.

[8] This clause was inserted by Bom. 43 of 1955, s. 5. This shall take effect only from such date as the State Government may by notification in the *Official Gazette* appoint.

[9] Clauses (*d*), (*g*), (*h*) and (*i*) were omitted by the Adaptation of Indian Laws Order in Council.

[10] The words "placed by the Government under the management of a local board or" were omitted, *ibid.*

(*n*) all grants [1]* * * made by [2][the Provincial Government] :

Provided that when a public ferry, road or bridge [3][vested in one or more than one local board] is partly in one district and partly in another, the Commissioner, if the districts are in one division, and [2][the Provincial Government] if they are in different divisions, may assign to the local fund of each district such proportion of the net proceeds of such ferry, or of the toll, or of the lease of the tolls levied on such road or bridge, as he or it shall think fit :

Provided further that if any road in a district is vested partly in a local board and partly in [2][the Provincial Government], the Collector may assign to the local fund of the district such proportion of the net proceeds of the toll or of the lease of the toll levied on such road as he shall think fit :

[4][Provided also that a local board may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the local board accounts any portion of the local fund set apart by it for any special purpose and shall credit to a separate heading any grant or donation received by it for any special purpose. Any grant or donation so credited by it shall be applied exclusively to the special purpose for which the same was received.]

76. [*Local fund by what boards to be expended.*] *Repealed by Bom. 47 of 1949, s. 33.*

77. Expenditure by the local boards out of the local fund shall, save as otherwise provided by this Act, be made within the areas respectively subject to their authority only, but may, [5][where it does not exceed rupees two hundred with the sanction of the Collector and where it exceeds rupees two hundred] with the sanction of the Commissioner, be made outside that area for any of the purposes of this Act. Local fund where to be expended.

78. Every district local board shall, from the portion of the local fund at its disposal, defray— General charges to be defrayed by district local boards.

(*a*) the salaries and other emoluments of all officers and servants maintained under section 119, and the pensions or other retiring allowances, if any, of such

[1] The words "and assignments of revenue" were omitted by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

[3] These words were inserted, *ibid.*

[4] This proviso was added by Bom. 4 of 1930, s. 3.

[5] These words were inserted by Bom. 16 of 1935, s. 4.

officers and servants, and the gratuities or compassionate allowances payable to the surviving relatives of such officers and servants; and such charges as may be agreed upon for the performance of any services for the board by any officer or [1][servant of the Crown];

(*b*) such sum as shall from time to time be fixed by [2][the Provincial Government] for the payment of the salaries [3][and allowances], of any officers or [1][servants of the Crown] employed by the board [4][and of such contributions for the pension of any such officers and servants as may be required, by the conditions of their service under the Crown, to be paid by them or on their behalf.]

Assignment of certain portions of revenue to municipalities or cantonment committees.

79. (*1*) Every district local board shall assign and cause to be paid out of the district local fund to every municipality and cantonment committee within the district for which such board has been established a sum equal to two-thirds of the amount of the revenue described in clauses (*b*) and (*c*) of section 75 levied from lands within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee, the whole of the said amount and such amount shall, at the request of the district local board. be ascertained and certified by the Collector.

(*2*) The sum assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 50, or for the remuneration of officers and servants whom it entertains for any of the said purposes; and a portion thereof equal to not less than one-third of the revenue described in sub-section (*1*) shall be expended by it for educational purposes only, as defined in clause (*d*) of section 50.

Expenditure for educational purposes.

[5][**80.** Every district local board shall pay over annually to the district school board for the purposes of primary education in the district such portion of its income from its revenue described in clauses (*b*) and (*c*) of section 75 as the Provincial Government may from time to time fix under section 41 of the Bombay Primary Education Act, 1947. In addition the district local board may incur expenditure from the local fund for other educational objects specified in clause (*l*) of section 50.]

Bom. LXI of 1947.

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[1] The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

[3] The words "and allowances" were substituted for the words "allowances and contributions for pension, according to the rules from time to time made by the Government," *ibid.*

[4] These words were inserted, *ibid.*

[5] Section 80 was substituted for the original by Bom. 47 of 1949, s. 34.

[1][**80A.** In any district notified by [2][the [3][State] Government] in this behalf such specified portion of the net proceeds of the cess levied therein under section 95, as may be determined by [2][the [3][State] Government], after consultation with the district local board concerned, shall be utilised towards the improvement of communications in irrigated tracts in that district.] Cess on water-rate to be utilised towards improvement of communications in irrigated tracts.

[4][**80B.** Every district local board shall, out of the grant of land revenue made by the [3][State] Government under section 118A, spend for the benefit of each taluka at least seventy-five per cent. of the amount of the grant of such revenue realised in the taluka. District local boards to spend 75 per cent. of grant of land revenue in talukas.

81. [*Provisions for determining by which boards expenditure should be incurred for other purposes.*] *Repealed by Bom. 47 of 1949, s. 35.*

82. (*1*) Subject to the provisions of sections 126 to 131 inclusive no payment shall be made from the Government treasury or by a bank or a co-operative society out of a local fund except upon a cheque or letter of credit signed by the president of the local board which requires such payment. How the local fund shall be drawn against.

(*2*) Payment of any sum in excess of [5][two hundred rupees] shall be made by a local board by means of a cheque or letter of credit signed as aforesaid and not in any other way :

[6][Provided that in the case of contribution from the local fund for purposes of primary education such contribution shall be made in accordance with the provisions of the Bombay Primary Education Act, 1947, and the rules made thereunder.]

Bom. LXI 1947.

83. Accounts of the receipts and expenditure of every local board shall be kept in such form as [7][the [3][State] Government] may from time to time by rule made in this behalf under clause (*f*) of section 133 prescribe, and shall be balanced annually on the last day of every financial or revenue year, as [2][the [3][State] Government] may prescribe. Accounts to be kept in form prescribed by the [3][State] Government.

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[1] This section was inserted by Bom. 22 of 1931, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] This section was inserted by Bom. 10 of 1939, s. 8.

[5] These words were substituted for the words "one hundred rupees" by Bom. 2 of 1951, s. 3.

[6] This proviso was substituted for the original by Bom. 47 of 1949, s. 36.

[7] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Publication of abstract of accounts annually.

84. An abstract of the accounts of every local board showing the amounts drawn from the local fund, the charges for establishment, and for all other expenses, the works undertaken, and the sums expended on each work, and the balance, if any, in hand, shall be forwarded by the president of the board every year, as soon as may be after the end of the year, in such form as [1][the [2][State] Government] may from time to time by rule made in this behalf under clause (*f*) of section 133 prescribe, to the Collector or such other officer as the Collector nominates in this behalf and shall be published in the [3][*Official Gazette*].

Return to be rendered to local boards of actual and estimated income of local funds.

85. (*1*) To enable local boards to prepare annual budget estimates, as hereinafter provided the Collector shall annually render to [4][the] local board in his district, on or before such date and in such form as [1][the [2][State] Government] from time to time directs, a return setting forth [5][for the district],—

(*a*) the actual receipts in the last complete official year,
(*b*) a revised estimate of the receipt in the current official year, and
(*c*) a first estimate of the probable receipt in the next following official year.

} from each of the sources from which the local fu derived ;

[6]* * * * * *

[7]* * * * * *

Preparation of annual budget estimates of income and expenditure.

86. (*1*) Every local board shall have prepared annually, on or before such date and in such form as [1][the [2][State] Government] from time to time by rule made in this behalf under clause (*f*) of section 133 prescribes, a budget estimate of the income and expenditure of the board for the next official year.

Consideration and approval of budget estimate by the board.

(*2*) The board shall, on or as soon as may be after the said date, consider the budget estimate so prepared and approve the same with or without modification as it shall think fit.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the words "each taluka" by Bom. 47 of 1949, s. 37 (*1*).

[5] These words were substituted for the words "for the taluka for which such board is established", *ibid*, s. 37 (*2*).

[6] The words "and to the district local board a similar return for the whole district" were deleted, *ibid*, s. 37 (*1*) (c).

[7] Sub-section (*2*) was deleted, *ibid*, s. 37 (*2*)

87. [*Taluka local board's budget estimates to be submitted for sanction to the district local board.*] *Repealed by Bom. 47 of 1949, s. 38.*

Revised or supplementary budget estimates may be made when necessary.

88. (*1*) Every local board may, at any time during the year for which any such budget estimate has been approved, [1]* * cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary estimate shall be considered and approved by the local board, [2]* * * * in the same manner as if it were an original annual budget estimate.

Re-appropriation to be subject to approval [3]* * like budget estimate.

(*2*) Re-appropriation of funds in a budget estimate may be made from time to time subject to the same approval [3]* * as is required for the budget estimate.

Budget estimates and re-appropriations when to be approved [4]* *.

89. (*1*) No budget estimate of a local board and no re-appropriation of a budget item shall be approved [4]* * as aforesaid, unless—

(*a*) provision is therein made for such board having at its credit at the end of the official year a balance of not less than five thousand rupees [5]* * * * *

(*b*) for every work [6]* of first construction [6]** there is attached to the budget estimate in which provision is made therefor a detailed estimate of the cost of such work, which has been approved by the board, and in the case of a road of which the cost is to exceed on an average three hundred rupees per mile or of any other work of which the total cost is to exceed three thousand rupees, plans and estimates have [7][either] been prepared or approved by the Government Executive Engineer of the district or by an engineer employed by the board and approved by [8][the Provincial Government] :

[9][Provided that [8][the Provincial Government] may, in any case, for special reasons direct that the provisions of this clause shall not apply.]

Copies of budget estimates and re-appropriation statements to be sent to the Collector.

(*2*) A copy of every budget estimate and a statement of every re-appropriation as finally approved [4]* * under the foregoing provisions shall be forwarded by the president of each local board without delay to the Collector, or such officer as he nominates in this behalf. Annual budget estimates shall be so forwarded not later than the 18th February.

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[1] The words " or sanctioned " were deleted by Bom. 47 of 1949, s. 39 (*1*) (*a*).

[2] The words " and in the case of a taluka local board submitted to the district local board for sanction " were deleted, *ibid*, s. 39 (*1*) (*b*).

[3] The words " or sanction " were deleted, *ibid*, s. 39 (*2*).

[4] The words " or sanctioned " were deleted, *ibid*, s. 40 (*1*).

[5] The words " in the case of a district local board, and two hundred rupees in the case of a taluka local board " were deleted, *ibid*, s. 40 (*2*).

[6] The words " whether " and " or repair " were deleted by Bom. 10 of 1927, s. 9 (*a*).

[7] The word " either " was inserted, *ibid*, s. 9 (*b*).

[8] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[9] This proviso was added by Bom. 10 of 1927, s. 9 (*c*).

Except on a pressing emergency no sum not provided for in a budget estimate to be expended.

90. (*1*) Save in case of pressing emergency, no sum shall be expended by, or on behalf of, any local board, unless such sum is included in some budget estimate at the time in force which has been approved [1]* * as aforesaid.

(*2*) If any sum is so expended on a pressing emergency, the circumstances shall be forthwith communicated in writing by the president to the Collector [2]* * * with an explanation of the way in which it is proposed by the local board to cover such extra expenditure.

91. [*Provision as to budget estimates in force when this Act comes into operation.*] *Repealed by Bom. 47 of 1949, s. 42.*

Audit to be made periodically under the orders of the Provincial Government.

92. [3][(*1*) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the accounts of local boards may be examined and audited at such intervals, in such manner, and by such agency as [4][the Provincial Government], on the application of the local board or local boards concerned, directs.] Bom. XXV of 1930.

Auditor to have power to see all accounts, etc.

(*2*) Every auditor appointed under this section shall have access to the accounts and to all books, deeds, contracts, vouchers and all other documents and records in the possession, or under the control of the local board.

[5][(*3*) [6]* * * Every local board shall publish the report and audit notes with the replies thereto in its administrative report and in a local newspaper selected by the board. [7]* * *

CHAPTER VII—TAXATION.

Levy of [10][three annas] cess on every rupee of land-revenue.

93. (*1*) [8][The Provincial Government] shall levy, on the conditions and in the manner hereinafter described, a cess [9][at the rate] of [10][three annas] on every rupee of—

(*a*) every sum payable to [8][the Provincial Government] as ordinary land-revenue except sums payable on account of any of the charges mentioned in Schedule A, and except sums payable on account of any charge which may be notified by [4][the Provincial Government] in this behalf, [11]

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[1] The words " or sanctioned " were deleted by Bom. 47 of 1949, s. 41 (*1*).

[2] The brackets and words " (through the district local board, if the sum has been expended by a taluka local board) " were deleted, *ibid*, s. 41 (*2*).

[3] Sub-section (*1*) was substituted for the original sub-section by Bom. 25 of 1930, s. 16 (*2*).

[4] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[5] Sub-section (*3*) was substituted for the original by Bom. 10 of 1927, s. 10.

[6] The words " The report of the auditor on each local board shall be sent to each board concerned and to the Collector and shall be published in the *Bombay Government Gazette* " were repealed by Bom. 10 of 1931, s. 4.

[7] The words beginning with the words " A copy of " and ending with the words " of the district " were deleted by Bom. 47 of 1949, s. 43.

[8] The words " The Provincial Government " were substituted for the words " The Government " by the Adaptation of Indian Laws Order in Council.

[9] These words were inserted by Bom. 10 of 1927, s. 11 (*i*) (*1*).

[10] The words " three annas " were substituted for the original words by Bom. 19 of 1948, s. 6.

[11] This comma was substituted for the word " and " by Bom. 10 of 1927, s. 11 (*i*) (*2*), (*a*).

(*b*) every sum which would have been assessable on any land as land-revenue had there been no alienation of land-revenue [1][, and]

[2][(*c*) every sum which would have been assessable on any land as land-revenue had the land not been talukdari land]:

[3]* * * * *

[4][Provided [3]* that no cess shall be levied on sums below four annas, and that the amount of the cess shall, if not a multiple of three pies, be increased to the next highest multiple of three pies.]

(*2*) [5][The [6][State] Government] may, on the application of the local board to which the cess is payable, suspend the collection of the cess or any portion thereof in any year in any area [7][subject to the authority of such local board].

Rules for assessment.

Bom. V of 1879.

94. [8](*1*) In the assessment of the said cess on villages alienated as defined in the Bombay Land Revenue Code, 1879,

(*a*) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder, the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder;

Bom. II and VII of 1863.

(*b*) if the village has come under summary settlement under the Exemptions from Land Revenue (No. 1) Act, 1863, or the Exemptions from Land Revenue (No. 2) Act, 1863, and clause (*a*) of this section does not apply, the cess shall be fixed on the total annual assessment as settled for the purpose of summary settlement; and

(*c*) in villages to which neither of clauses (*a*) or (*b*) of this section applies, the cess shall be fixed on the old or kammal rate recorded in the books of the Collector; and if no such rate is recorded, or if the rate so recorded is objected to by the holder or proprietor of the alienated village, the cess may be fixed as agreed upon by the Collector [9][in agreement with the district local board who shall pass a special resolution to that effect] and such holder or proprietor, or, failing agreement, by a rough survey and assessment to be made by [5][the [6][State] Government], the expense of such rough survey being borne half by the local board and half by the holder or proprietor of such village.

[10][(*2*) The provisions of sub-section (*1*) shall apply, so far as may be, to talukdari land.]

Levy of cess on water-rate.

Bom. VII of 1879.

95. [5][The [6][State] Government] may levy a cess not exceeding [11][three annas] on every rupee of water-rate leviable under the provisions of the Bombay Irrigation Act, 1879.

Manner of levying cess described in section 93.

96. The cess described in section 93 shall be levied, so far as may be, in the same manner, and under the same provisions of law, as the land revenue.

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[1] The comma and the word "and" were substituted for the mark ":" by Bom. 10 of 1927, s. 11 (*i*) (*2*) (*b*).

[2] This clause was inserted, *ibid*, s. 11 (*i*) (*2*) (*c*).

[3] The first proviso and the word "further" in the second proviso were deleted by Bom. 19 of 1948, s. 6.

[4] This proviso was inserted by Bom. 10 of 1927, s. 11 (*i*) (*4*).

[5] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[7] These words were substituted for the words "in which the Government has declared that famine exists" by Bom. 10 of 1927, s. 11 (*ii*).

[8] Original section 94 was renumbered as section 94 (*1*) by Bom. 5 of 1928, s. 3 (*a*).

[9] These words were inserted by Bom. 5 of 1928, s. 3 (*b*).

[10] New sub-section (*2*) was added to the original section 94 by Bom. 5 of 1928, s. 3 (*c*)

[11] These words were substituted for the words "two annas" by Bom. 19 of 1948, s. 7.

Manner of levying cess described in section 95.

97. The cess described in section 95 shall be levied, so far as may be, in the same manner, and under the same provisions of law, as water-rates payable to [1][the [2][State] Government] under the Bombay Irrigation Act, 1879. Bom. VII of 1879.

Assistance to superior holders.

98. The provisions of law relative to the assistance to be given to superior holders and owners of water-courses for the recovery of their dues from their tenants and occupants under them, or from persons authorized to use their water-courses, shall be applicable to all superior holders, whether of alienated or unalienated land, and to all owners of water-courses in respect of the recovery of the said cesses from their tenants, occupants or persons authorized to use their water-courses, and shall be applicable also to occupants of land under the Bombay Land Revenue Code, 1879, for the recovery of the said cesses from their tenants or joint occupants. Bom. V of 1879.

Taxes which may be imposed by district local board.

99. Subject to any general or special orders which may be made by [1][the [2][State] Government] in this behalf, every district local board may—

(*a*) after observing the preliminary procedure required by section 100; and

(*b*) with the sanction of the Commissioner, and subject to such modifications or conditions as under section 101 the Commissioner, in according such sanction, deems fit, impose, for the purposes of this Act, any tax [3][(other than a toll on [4][vehicles, animals or persons] save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] which, [5][the [2][State] Legislature has power under the [6][Constitution] to impose in the [7][State] : Bom. XXX. IV of 1935.

Provided that no tax imposed as aforesaid other than a special sanitary cess or a water-rate shall without the express [8][consent of the Government concerned] be leviable in respect of any building or part of any building, or of any vehicle, animal or other property, [9][belonging to the [10][Government]] and used solely for public purposes, and not used or intended to be used for purposes of profit, and no toll [11][or octroi] shall be leviable for the passage of troops, the conveyance of Government stores or of any other Government property, the passage of Military or Police officers on duty, or the passage or conveyance of any person or property in the custody of such officers.

[12][Until provision to the contrary is made by the [13][Parliament by law] a district local board which was immediately before the commencement of [14][the Constitution] lawfully levying any tax under this section as then in force, may continue to levy that tax notwithstanding that it is not a tax which the [2][State] Legislature has, under that Act, power to impose in the [7][State].

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words, figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.

[4] These words were substituted for the words "vehicles or animals" by Bom. 3 of 1940, s. 16, read with Bom. 40 of 1947, s. 2.

[5] These words were substituted for the words "under rules made under clause (*a*) of sub-section (*3*) of section 80A of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General" by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the words and figures "Government of India Act, 1935", by the Adaptation of Laws Order, 1950.

[7] This word was substituted for the word "Province", *ibid.*

[8] These words were substituted for the words "consent of the Government" by the Adaptation of Indian Laws Order in Council.

[9] These words were substituted for the words "belonging to the Government", *ibid.*

[10] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[11] These words were inserted by Bom. 23 of 1938, s. 2.

[12] These words were inserted by the Adaptation of Indian Laws Order in Council.

[13] These words were substituted for the words "Central Legislature" by the Adaptation of Laws Order, 1950.

[14] This word was substituted for the portion "Part III of the Government of India Act, 1935" *ibid.*

Procedure of board preliminary to imposing tax.

100. (*1*) Every district local board shall, before imposing a tax, by resolution passed at a meeting of the board—

(*a*) select a tax which may under section 99 be imposed ; and

(*b*) approve rules describing the tax selected ; and shall in such resolution and in such rules specify ;

(*c*) the class or classes of persons or of property, or of both, which the district local board desires to make liable, and any exemptions which it desires to make ;

(*d*) the amount for which, or the rate at which it is desired to make such classes liable ; and

(*e*) all other matters which [1][the [2][State] Government] may require to be so specified.

(*2*) When such resolution has been passed, the district local board shall publish the rules with a notice in the form of Schedule B prefixed thereto.

(*3*) Any inhabitant of the district objecting to the imposition of the said tax, or to the amount or rate proposed or to the class of persons or property to be made liable thereto, or to any exemptions proposed, may within one month from the publication of the said notice send his objection in writing to the district local board, and the board shall take all such objections into consideration, or shall authorize a committee of its members to consider and report on them, and, unless it decides to abandon or modify the proposed tax in accordance with the said objections, shall submit them with its opinion thereon, together with the notice and rules as aforesaid, to the Commissioner.

Power to sanction, modify and impose conditions.

101. The Commissioner may either refuse to sanction the rules submitted, or may return them to the district local board for further consideration, or, if, no objection, or no objection which is in his opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either—

(*a*) without modification, or

(*b*) subject, as he deems fit,

(*i*) to such modifications not involving an increase of the amount to be imposed, or

(*ii*) to such conditions as to the application within the district to any purpose or purposes of this Act specified in such conditions of the whole or any part of the proceeds of such tax.

Publication of sanctioned rules with notice.

102. All rules sanctioned under section 101 with all modifications subject to which the sanction is given, shall be published by the district local board in the district for which they are made, together with a notice reciting the sanction and the date and serial number thereof ; and the tax as described in the rules so published shall, from a date which shall be specified in such notice and shall not be less than one month from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the district local board in accordance with the conditions, if any, subject to which under section 101 the sanction was given :

[1] The words "The Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Provided that—

(*a*) a tax leviable by the year—

(*i*) shall not come into force except on one of the following dates, *viz.*, the first day of April, the first day of July, the first day of October, or the first day of January, in any year, and

(*ii*) if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing ;

(*b*) on or before the day on which a notice is issued under this section the district local board shall publish such further detailed rules as may be required, and as may have been approved by the Commissioner, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof shall be payable ; and

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards any unpaid arrears which have become due during the period.

Collection of octroi by one public body on behalf of others.

[1][**102A.** Where any agreement such as is referred to in sub-section (*1A*) of section 46 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf shall have the same power to establish such octroi limits and stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of the Act under which that body is constituted relating to octroi, shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of that body ; and the collections made and the costs thereby incurred shall, subject to the provisions of section 46, be divided between the bodies entering into the agreement in such proportions as shall have been determined in the agreement.]

Octroi rules.

[2][**102B.** A district local board when submitting to the Commissioner for sanction a proposal for the imposition of octroi shall, after observing the requirements of sub-sections (*2*) and (*3*) of section 100, include in such rules provisions for fixing octroi limits and stations ; providing for the exhibition of tables of octroi ; regulating, subject to any general or special orders which the [3][State] Government may make in this behalf, the system, under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for use or consumption within the area of the board ; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained and the minimum amount for which any claim to refund may be made.]

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[1] This section was inserted by Bom. 14 of 1934, s. 3 (2).
[2] New section 102B was inserted by Bom. 23 of 1938, s. 3.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

[1][102C. Where in exercise of the powers given by this Act a district local board imposes a tax on professions, trades, callings and employments, then notwithstanding in this Act or any other law for the time being in force, in any area within the limits of a village panchayat constituted under the Bombay Village Panchayats Act, 1933,— Bom. VI of 1933.

Tax on professions, etc., levied by district local board to be collected by village panchayat.

(*a*) such tax shall be collected by the village panchayat concerned from those persons who are liable to pay the tax under the rules made by a district local board and who reside or carry on any trade or exercise any profession or follow a calling within such area, in accordance with the provisions of sections 91 and 92 of the Bombay Village Panchayats Act, 1933, as if it was a tax imposed by it under the provisions of the said Act and shall be paid to the district local board at such time and in such manner as the district local board may specify ; Bom. VI of 1933.

(*b*) such percentage not exceeding 50 per cent. of the gross collection of such tax in any financial year as the State Government may by general or special order determine shall not form part of the local fund of the district local board but shall be assigned to the village panchayat in such manner as the district local board may determine.

102D. (*1*) If any village panchayat makes default in the payment of any sum due in respect of a tax on professions, trades, callings and employments within the time specified by the district local board under clause (*a*) of section 102C, the district local board may, notwithstanding any law relating to the funds vesting in such village panchayat or any other law for the time being in force, direct any bank in which any moneys of the village panchayat are deposited or the person in charge of the Government treasury or of any place of security in which the moneys of the village panchayat are deposited to pay such sum from such moneys as may be standing to the credit of the village panchayat in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the village panchayat by way of deposit by such bank or person ; and such bank or person shall be bound to obey such order.

Default of village panchayat payment.

(*2*) Every payment made pursuant to an order under sub-section (*1*) shall be a sufficient discharge to such bank or person from all liability to the village panchayat in respect of any sum so paid by it or him out of the moneys of the village panchayat so deposited with such bank or person.]

103. If it shall at any time appear to [2][the [3][State] Government] on complaint made or otherwise, that any tax leviable by a district local board is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interest of the general public or violates any promises made or undertakings incurred

Power of [3][State] Government to suspend levy of objectionable taxes.

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[1] Sections 102C and 102D were inserted by Bom. 43 of 1955, s. 6. These sections shall take effect only from such date as the State Government may by notification in the *Official Gazette* appoint in this behalf.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

by [1][the [2]State Government], [1][the [2]State Government] may require the said district local board, within such period as it shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax, and if within the period so fixed, such requirement shall not be carried into effect to the satisfaction of [1][the [2]State Government], [1][the [2]State Government] may, by notification in the [3][*Official Gazette*], suspend the levy of such tax or of such part thereof, until such time as the objection thereto shall be removed.

CHAPTER VIII—Collection of Taxes.

Presentation of bill for amount of tax.

104. (*1*) When any amount which,

(*a*) by or under any provision of this Act, is declared to be recoverable in the manner provided by this Chapter, or

(*b*) not being payable on demand on account of [4]* * * a toll, is claimable as an amount or instalment on account of any tax [5](including an octroi) which is imposed in the district shall have become due,

the district local board shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum claimed as due.

Contents of bill.

(*2*) Every such bill shall specify—

(*a*) the period for which, and

(*b*) the property, occupation or thing in respect of which, the sum is claimed,

and shall also give notice of—

(*i*) the liability incurred in default of payment, and

(*ii*) the time within which an appeal may be preferred, as hereinafter provided, against such claim.

If bill not paid within fifteen days, notice of demand to issue.

(*3*) If the sum for which any bill has been presented as aforesaid is not paid into the local board office, or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the district local board may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule C, or to the like effect.

In what cases warrant may issue.

105. If the person liable for the payment of the said sum does not, within fifteen days from the service of such notice of demand, either—

(*a*) pay the sum demanded in the notice, or

(*b*) show cause to the satisfaction of the district local board, or of such officer as the board by rule may appoint in this behalf, why he should not pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 113 against the demand,

such sum with all costs of the recovery may be levied under a warrant caused to be issued by the district local board in the form of Schedule D or to the like effect by distress and sale of the moveable property of the defaulter.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] The words "an octroi or" were deleted by Bom. 10 of 1949, s. 9.

[5] These words and brackets were inserted, *ibid.*

Warrant by whom to be signed.

106. Every warrant issued under section 105 shall be signed by the president of the district local board causing the same to be issued, or by an officer authorized by the district local board for this purpose or with the sanction of [1][the [2]State Government], by [3][a [4][Government officer]].

Octroi on goods in vessels in river, creek, etc.

[5][**106A.** Where an officer of a district local board has reasons to suspect that any goods on which an actroi is leviable are on board a vessel and such vessel has entered any river, stream, creek or an arm of the sea, the limits of which shall be specified by the [2]State Government as being within the district for the purposes of this section, such officer may board the vessel and may take steps for the recovery of octroi due in the manner provided by this Act.]

To whom warrant should be addressed.

107. When the property is in the district, the warrant shall be addressed to an officer of a local board established in the district or with the sanction of [1][the [2]State Government], to [3][a [4][Government officer]].

When the property is in another district, the warrant shall be addressed to the president of the district local board in such other district : provided that such president may endorse such warrant to a subordinate officer or with the sanction of [1][the [2]State Government] to [3][a [4][Government officer]]. When the property is in [6][Greater Bombay], the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay : provided that the Registrar may endorse such warrant to a subordinate officer.

Power of entry under special order.

108. Any officer to whom a warrant is addressed by endorsement or otherwise may, if the warrant contains a special order authorizing him in this behalf, but not otherwise, break open at any time between sunrise and sunset any outer or inner door or window of a building in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance provided that such officer shall not enter or break open the door of any apartment appropriated for women until he has given three hours' notice of his intention and has given such women an opportunity to remove themselves.

Warrant how to be executed.

109. Such officer may distrain, wherever it may be found, any moveable property of the person named in the warrant as defaulter subject to the following conditions, exceptions and exemptions, namely :—

(*a*) the following property shall not be destrained—

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(*ii*) the tools of artizans, and

(*iii*) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable him to earn his livelihood ;

(*b*) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any articles have been distrained which, in the opinion of a perso

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[1] The words "the Provincial Government" were substituted for the words "the Government by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "a servant of the Crown" were substituted for the words "an officer of the Government" by the Adaptation of Indian Laws Order in Council.

[4] These words were substituted for the words "Servant of the Crown" by the Adaptation of Laws Order, 1950.

[5] This section was inserted by Bom. 10 of 1949, s. 10.

[6] These words were substituted for the original by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

authorized by or under section 106 to sign a warrant should not have been so distrained they shall forthwith be returned; and

(*c*) the officer shall on seizing the property forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure a written notice in the form of Schedule E, that the said property will be sold as shall be specified in such notice:

Provided that if after the property is distrained and before it has been removed, the sum due by the defaulter together with all costs incidental to the notice, warrant and distress of the property is paid, the officer shall remove the distress.

Sale of goods distrained.

110. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the president or officer by whom the warrant was signed shall at once give notice to the person in whose possession the property was when seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Application of proceeds of sale.

(*2*) If not sold at once under sub-section (*1*), the property seized or a sufficient portion thereof may, unless the warrant is suspended by the person who signed it, or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress and detention of the property is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the district local board and the proceeds, or such part thereof as shall be requisite, shall be applied in discharge of the sum due and of all such incidental costs as aforesaid.

Surplus, if any, how dealt with.

(*3*) The surplus, if any, shall be forthwith credited to the local fund, notice of such credit being given at the same time to the person from whose possession the property was taken. But if the same be claimed by written application to the district local board within one year from the date of the notice, a refund thereof shall be made to such person. Any sum not claimed within one year from the date of such notice shall be the property of the district local board.

Distraint and sale outside the district.

111. When the warrant is addressed outside the district, the authority issuing the warrant may by endorsement direct the president or registrar to whom the warrant is addressed to sell the property distrained, and in such case it shall be lawful for such president or registrar to sell the property and do all things incidental to the sale, and the foregoing provisions shall be modified accordingly. Such president or registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the authority by whom it was issued.

Fees and costs chargeable.

112. Fees for—

(*a*) every notice issued under sub-section (*3*) of section 104,

(*b*) every distress made under section 109, and

(*c*) the costs of maintaining any livestock seized under the said section,

shall be chargeable at the rates respectively specified in such behalf in the rules of the district local board, and shall be included in the costs of recovery to be levied under section 105.

Appeals to Magistrates.

113. Appeals against any notice of demand issued under sub-section (*3*) of section 104 may be made to any [1][Judicial Magistrate or Bench of such Magistrates]

[1] These words were substituted for the words "Magistrate or Bench of Magistrates" by Bom. 8 of 1954, s. 2, Schedule—Part III.

by whom under the directions of the [1][Sessions Judge] such class of cases is to be tried. But no such appeal shall be heard and determined unless—

(*a*) the appeal is brought within fifteen days next after service of the notice of demand complained of;

(*b*) an application in writing, stating the ground on which the claim of the district local board is disputed, has been made to the district local board as follows that is to say:

(*i*) in the case of a rate on buildings or lands, within a time to be notified in the notice given of the assessment or alteration thereof, according to which the bill is prepared, and

(*ii*) in the case of any other claim for which a bill has been presented under sub-section (*1*) of section 104, within fifteen days next after the presentation of such bill, and

(*c*) the amount claimed from the appellant has been deposited by him in the local board office.

Liability of lands buildings, etc., for rates.

114. All sums due on account of any tax imposed in the form of a rate on lands or buildings or on both shall, subject to prior payment of land-revenue, if any, due thereupon, be a first charge upon the building or land in respect of which such tax is leviable, and upon the moveable property, if any, found within or upon such building or land, and belonging to the person liable for such tax:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due for more than one year or for a period during which such occupier was not in occupation.

Suspension of power to recover by distress and sale.

115. [2][The [3][State] Government] may at any time by notification suspend the operation of sections 105 to 110 inclusive in any district and from such date as shall be fixed in this behalf in the notification, every amount due on account of any tax theretofore recoverable under the said sections, shall be recoverable on application to a Magistrate, in the manner provided in sub-section (*2*) of section 70 for the recovery of such fines as are therein referred to, and not otherwise.

Power to examine articles liable to octroi.

[4][**115A.** (*1*) A person bringing into or receiving from beyond the octroi limits of a district local board any animal or goods on which octroi is payable shall, when required by an officer authorized in this behalf by the district local board and so far as may be necessary for ascertaining the amount of tax chargeable—

(*a*) permit that officer to inspect, examine, weigh, and otherwise deal with such animal or goods;

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to such animal or goods; and

(*c*) make a declaration in writing to that officer regarding the correctness and accuracy of the document shown to him.

Power to search where octroi is leviable.

(*2*) If any person bringing into or receiving from beyond the octroi limits of a district local board in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the board in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of

[1] These words were substituted for the words "State Government or of the District Magistrate" by Bom. 8 of 1954, s. 2, Schedule—Part III.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by Adaptation of Laws Order, 1950.

[4] New sections 115A, 115B and 115C were inserted by Bom. 23 of 1938, s. 5.

ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the co..veyance or package to be taken without unnecessary delay before a Magistrate or such officer of the board as the [1][State] Government appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.]

Presentation of bills for octroi.

[2][**115B.** An officer demanding octroi by the authority of the district local board shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed, and the rate at which the tax is calculated.]

Penalty for evasion of octroi.

[2][**115C.** Where any animal or goods passing into the octroi limits of a district local board are liable to the payment of octroi, any person who, with the intention of defrauding the board, causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of the said board any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the amount of such octroi or to fifty rupees whichever may be greater.]

[3][Power to seize animals, goods or vehicles on non-payment of octroi or toll.]

116. (*1*) In the case of the non-payment on demand of any [4][octroi or] toll leviable by a district local board the person appointed to collect [5][such octroi or toll may seize any animal or goods on which octroi is leviable or] vehicle or animal on which the toll is chargeable or any part of its burden which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the property seized a list of the property together with a written notice in the form of Schedule E that the said property will be sold as shall be specified in such notice.

Power to sell property seized at once.

(*2*) When any article seized is subject to speedy and natural decay, or when the expense of keeping it together with the amount of the [6][octroi or] toll chargeable is likely to exceed its value, the person seizing such article may inform the person in whose possession it was that it will be sold at once, and shall sell it or cause it to be sold accordingly unless the amount of [6][octroi or] toll demanded be forthwith paid.

Release of property on payment.

(*3*) If at any time before the sale has begun, the person whose property has been so seized tenders at the local board office the amount of all expenses incurred, and of [6][octroi or] toll payable, the property seized shall forthwith be released.

Sale.

(*4*) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such [6][octroi or] toll and of the expenses incidental to the seizure, detention and sale.

Surplus how dealt with.

(*5*) The surplus, if any, of the sale proceeds shall be credited to the local fund and may, on application made to the district local board in writing within [7][three years] next after the sale, be paid to the person in whose possession the property was when seized, and, if no such application is made, shall be the property of the district local board.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] New section 115A, 115B and 115C were inserted by Bom. 23 of 1938 s. 5.
[3] This marginal note was substituted for the original by Bom. 10 of 1949, s. 11.
[4] These words were inserted by Bom. 23 of 1938, s. 6(*1*) (*a*).
[5] These words were substituted for the words "such toll may seize any", *ibid* s. 6(*1*) (*b*).
[6] These words were inserted, *ibid*, s. 6(*2*).
[7] These words were substituted for the words "six months", *ibid.*, s. 6(*3*).

Power to keep account current with person, firm or public body in lieu of levying octroi on introduction of goods.

[1][116A. The district local board, if it thinks fit, instead of requiring payment of octroi due from any person, mercantile firm or public body to be made at the time when the animals or goods in respect of which the octroi is leviable are introduced within the octroi limits of the board, may at any time direct that an account current shall be kept on behalf of the board of the octroi so due from such person, firm or body. Such account shall be settled at intervals not exceeding one month, and such person, firm or public body shall give such information or details and make such deposit or furnish such security as the board or any officer authorized by it in this behalf shall consider sufficient to cover the amount which may at any time be due from such person, firm or body in respect of such dues. Any amount so due at the expiry of any such interval shall, for the purposes of [2][this Chapter] be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable [2][thereunder].

Farming of tolls.

117. (*1*) The district local board may lease the levy of any toll that may be imposed under this Act by public auction or private contract :

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Person employed by the lessee of toll to have power of seizure.

(*2*) When any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, have the powers referred to in sub-sections (*1*) and (*2*) of section 116 :

Provided that no article seized may be sold except under the orders of the district local board.

(*3*) Any sum due from a lessee to a local board in respect of any toll leased under this section may be recovered as an arrear of land-revenue.

Receipts to be given for all payments.

118. For all sums paid on account of any tax under this Act, a receipt stating the amount and the tax on account of which it has been paid shall be tendered by the person receiving the same.

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[3][CHAPTER VIIIA.

FINANCIAL ASSISTANCE TO DISTRICT LOCAL BOARDS.

Grant of 15 per cent. of land revenue to district local boards.

118A. The [4][State] Government shall make every year a grant to every district local board equivalent in amount to fifteen per cent. of the ordinary land revenue including non-agricultural assessment realised during the previous revenue year from lands within the limits of the district excluding lands within municipal boroughs, municipal districts or villages within the meaning of the Bombay Village Panchayats Act, 1933.] Bom. VI of 1933.

[5][Provided that if in the opinion of the State Government a district local board has failed in any year to spend for the benefit of a taluka or talukas the full amount of grant required to be spent under section 80-B in respect of such taluka or talukas, the grant to be made under this section in the next year may be reduced by the amount by which the amount of grant actually spent for the benefit of the taluka or talukas in the previous year fell short of the amount required to be spent under section 80-B.]

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[1] New section 116A was inserted by Bom. 23 of 1938, s. 7.
[2] These words were substituted for the original by Bom. 10 of 1949, s. 12.
[3] This Chapter and s. 118A were inserted by Bom. 10 of 1949, s. 13.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] This proviso was added by Bom.18 of 1954, s. 2.

CHAPTER IX—OFFICERS AND SERVANTS OF LOCAL BOARDS.

Schedule of establishment to be prepared and sanctioned by district local boards; * * * * Engineer.

119. (*1*) Every district local board may appoint and pay such officers and servants as it shall deem necessary and proper to maintain for the efficient execution of its duties under [1]* * * this Act, and shall from time to time prepare and sanction a schedule of the staff to be so maintained, setting forth the designations and grades of the different officers and servants, [2][to be maintained by it,] their respective duties and the amount and nature of the salaries, fees and allowances to be paid to each, and determining which of the said officers and servants are to be maintained permanently and which temporarily only.

[3][Provided that when so required by the [4][State] Government, a dearness allowance at such rates as may be fixed by the [4][State] Government from time to time shall be paid to the officers and servants maintained by a district local board under sub-section (*1*).]

(*2*) Where any district local board appoints a Chief Officer or an Engineer and such appointment is approved by [5][the [4][State] Government], [5][the [4][State] Government] shall pay two-thirds of the salary of such Chief Officer or Engineer ;

* * * * * *

[7][(*3*) If at any time after a Chief Officer, [8][or Engineer] has been appointed by a district local board and such appointment has been approved by [5][the [4][State] Government] under sub-section (*2*), it shall appear to [5][the [4][State] Government] after an enquiry held under section 128, that any of such officers is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal necessary in the public interest, [5][the [4][State] Government] may, by a written notice require the district local board to remove such officer from office on or before a date specified in the notice. If the district local board fails to remove such officer from office on or before such date, the liability of [5][the [4][State] Government] to pay any part of the salary of such officer shall, notwithstanding anything contained in sub-section (*2*), cease from the said date.]

Delegation of power to engage officers and servants.

120. The district local board may, subject to any rule or order made by [5][the [4][State] Government] in this behalf under clause (*g*) of section 133, delegate to its president [10][or Chief Officer] [11]* * * the power of appointing any officer or servant on a salary not exceeding such limit as may be prescribed by [5][the [4][State] Government] by rule in this behalf.

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[1] The words "and the duties of the taluka local boards in the district" were deleted by Bom. 47 of 1949, s. 44 (*1*) (*a*).

[2] These words were substituted for the words "the boards under which they are to be respectively employed", *ibid*, s. 44 (*1*) (*b*).

[3] This proviso was added by Bom. 21 of 1945, s. 3 (*ii*), read with Bom. 19 of 1948, s. 2.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[6] The words beginning with the words "and where" and ending with the words "such officer" were deleted by Bom. 47 of 1949, s. 44 (*2*).

[7] Sub-section (*3*) was added by Bom. 30 of 1935, s. 3.

[8] These words were substituted for the words "Engineer or Health Officer" by Bom. 47 of 1949, s. 44 (*3*).

[9] The words "Health Officer" were deleted, *ibid*, s. 44 (*4*).

[10] The words "or Chief Officer" were inserted by Bom. 8 of 1934, s. 3.

[11] The words "or to president of any taluka local board subordinate to it" were deleted by Bom. 47 of 1949, s. 45.

Power of Commissioner to prevent extravagance in establishments.

121. If in the opinion of the Commissioner the number of persons maintained by a district local board as officers or servants, or whom a district local board proposes to maintain, or the remuneration assigned by the board to those persons or to any particular person, is excessive, the said board shall, on the requirement of the Commissioner, reduce the number or remuneration of the said persons:

Provided that the district local board may appeal against any such requirement to [1][the [2][State] Government] whose decision shall be conclusive.

Punishment and dismissal of officers and servants.

122. The power of punishing or dismissing any officer or servant maintained by a district local board shall, subject to any regulation framed under section 123, and to any rule or order made by [1][the [2][State] Government] in this behalf under clause (*g*) of section 133, vest in the said board:

Provided that, subject as aforesaid, the power of punishing or dismissing any such officer or servant not receiving salary beyond such limit as may be prescribed by [1][the [2][State] Government] by rule made in this behalf under clause (*g*) of section 133 may be delegated by a district local board to its president [3][or to its Chief Officer] [4][or Engineer].

District local boards to frame regulations;

123. Every district local board may from time to time frame regulations,

fixing the amount of the security to be furnished regulating leave;

(*a*) fixing the amount and nature of the security to be furnished by any officer or servant maintained by the board from whom it may be deemed expedient to require security;

(*b*) regulating the grant of leave to the permanent officers and servants maintained by the board;

settling absentee allowances;

(*c*) authorizing the payment of allowances to the said officers and servants or to certain of them, whilst absent on leave;

fixing acting allowances;

(*d*) determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

regulating length of service;

(*e*) regulating the period of service of all such officers and servants;

regulating punishment and dismissal;

[5][(*ee*) regulating, subject to any rule or order made by [1][the [2][State] Government] in this behalf under clause (*g*) of section 133, the punishment and dismissal of such officers and servants;]

fixing pensions, etc.;

(*f*) determining the conditions under which such officers and servants or any of them, shall, on retirement, receive pensions, gratuities, or compassionate allowances; the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of such officers and servants and the amount of such pensions, gratuities or compassionate allowances; [6]* *

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were inserted by Bom. 10 of 1927, s. 12.

[4] These words were substituted for the words "Engineer or Health Officer or to the president of any taluka local board subordinate to it" by Bom. 47 of 1949, s. 46.

[5] Clause (ee) was inserted, by Bom. 8 of 1934, s. 5.

[6] The word "and" was deleted by Bom. 18 of 1954, s. 3 (*1*).

(*g*) authorizing the payment of contributions at certain specified rates and subject to certain specified conditions to any pension or provident fund which may, with the approval of the said board, be established by the said officers and servants : fixing contributions to provident funds ;

Provided that,

(*i*) if an officer is lent to any local board by [1][the [2][State] Government] or if an officer is employed partly in the service of the [1][the [2][State] Government] and partly in the service of a local board, such board shall contribute to his pension and leave allowances to such extent as may be required by rules made by [1][the [2][State] Government] in this behalf under clause (*g*) of section 133 and shall not except with the assent of [1][the [2][State] Government], dispense with his further services at any time without giving [1][the [2][State] Government] six months' previous notice ; and Proviso as to officers lent by [2][State] Government;

(*ii*) no regulation made by any district local board under this section shall have effect unless and until it has been approved by [1][the [2][State] Government]. and as to approval of regulations by the [2][State] Government.

[3][(*h*) enabling such officers or servants who are subscribers to any provident fund to exercise the option of joining any pension fund established as aforesaid, either retrospectively or prospectively, on such terms and conditions as may be specified in the regulations and providing for the manner in which the amount of contributions made to the provident fund by such officers or servants and the board and standing to the credit of such officers or servants on the date on which the option is exercised shall be dealt with.] Option to join pension fund.

[4][**123A.** (*1*) Notwithstanding anything contained in this Act, the State Government may, by notification in the *Official Gazette*, constitute, in respect of the district local boards in the State of Bombay, a common cadre of Engineers. Power of State Government to constitute common cadre of Engineers.

(*2*) On the issue of a notification under sub-section (*1*), the State Government shall have power to make rules to regulate the classification, methods of recruitment, conditions of service, salary and allowances and discipline and conduct of such cadre thereby constituted, including the manner of, and the terms and conditions (which shall not be less advantageous in respect of remuneration, leave, pension and provident fund than those under which they were recruited) under which existing officers shall form, or be absorbed into, such cadre ; and such rules may vest jurisdiction in respect of all or any of such matters in relation to such cadre in the State Government, or in such other authority or authorities as may be prescribed thereunder.

(*3*) The State Government may recover from the district local board concerned not more than one-third of the salary of any member of the cadre and such contribution, whether in whole or part, towards his leave allowances, pension and provident fund as may be prescribed.

(*4*) Sections 134, 135 and 136 shall apply in relation to a member of the cadre as they apply in relation to any other officer or servant maintained by or employed under a local board.]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] Clause (*h*) was inserted by Bom. 18 of 1954, s. 3(*2*).
[4] Section 123A was inserted by Bom. 43 of 1955, s. 7.

CHAPTER X—CONTROL.

Powers of inspection and supervision.

124. (*1*) The Commissioner, Collector or any [1][Government officer] authorized by general or special order of [2][the [3][State] Government] may—

(*a*) enter on and inspect any immovable property occupied by any local board or any institution under its control and management, or any work in progress under it or under its direction, or cause such immovable property, institution or work to be entered upon and inspected by any other person authorized by him in this behalf in writing; and

(*b*) call for any extract from the proceedings of any local board or any committee appointed by such board, and called for or inspect any book or document in the possession of or under the control of a local board.

(*2*) [4][The Director of Local Authorities or] the Collector may—

(*a*) call for any return, statement, account or report which he may think fit to require a local board to furnish; and

(*b*) require a local board to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done by such board, or any information furnished by him which appears to him to necessitate the doing of a certain thing by such board and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing or for not doing, such thing.

Collector's power of suspending execution of orders, etc. of local boards.

125. (*1*) If, in the opinion of the Collector the execution of any order or resolution of a local board, or the doing of anything which is about to be done, or is being done by or on behalf of a local board, is causing, or is likely to cause, injury or annoyance to the public, or to lead to a breach of the peace or is unlawful, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof.

Collector's order to be reported to the Commissioner, who may confirm or modify it.

(*2*) When a Collector makes any order under sub-section (*1*), he shall forthwith forward to the Commissioner and to the local board affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order or direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

Every case under this section to be reported to the [3][State] Government for its final orders.

(*3*) The Commissioner shall forthwith submit to [2][the [3][State] Government] a report of every case occurring under this section, and [2][the [3][State] Government] may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

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[1] These words were substituted for the words "servant of the Crown", by the Adaptation of Laws Order, 1950.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were inserted by Bom. 11 of 1954, s. 12.

Extraordinary powers of Collector in case of emergency.

126. (*1*) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the local board.

(*2*) If the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury or bank or society in which the local fund is kept or the whole or portion thereof is deposited or lent on interest, to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hand.

(*3*) The Collector shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Power of the [2][State] Govenment to provide for performance of duties in default of local board.

127. (*1*) When [1][the [2][State] Government] is informed, on complaint made or otherwise that a local board has made default in performing any duty imposed on it by or under this Act, [3][or by or under any enactment for the time being in force] [1][the [2][State] Government], if satisfied after due enquiry that the local board has been guilty of the alleged default, may fix a period for the performance of that duty :

Provided that no such period shall be fixed unless the local board has been given an opportunity to show cause why such order shall not be made.

(*2*) If that duty is not performed within the period so fixed, [1][the [2][State Government] may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the local board.

[4][(*3*) If the expense and remuneration are not so paid [1][the [3][State] Government] may make an order directing the officer in charge of the treasury or bank or society in which the local fund is kept or the whole or portion thereof is deposited or lent on interest to pay such expense and remuneration from such moneys as may be standing to the credit of the local board in such treasury or bank or society or as may, from time to time, be received from or on behalf of the local board by way of deposit by such treasury or bank or society ; and such officer or bank or society shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such officer, bank or society from all liability to the local board in respect of any sum or sums so paid by him or if out of the moneys so received or standing to the credit of the local board in such treasury or bank or society.]

Inquiry into affairs of.

128. (*1*) [1][The [2][State] Government] may from time to time cause inquiry to be made by any of its officers in regard to any local board, or matters concerning it, or any matters with respect to which the sanction, approval, consent or order of [1][the [2][State] Government] is required by this Act.

(*2*) The officer holding such inquiry shall have the powers of a court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the inquiry.

V of 1908.

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 5 of 1932, s. 3.
[4] This sub-section was substituted for original sub-section (*3*) by Bom. 23 of 1931, s. 3.

(3) [1][The [2][State] Government] may make orders as to the costs of inquiries made under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid, and such order may, on the application of [1][the [2][State] Government] or of any person named therein, be executed as if it were a decree of a civil court.

Power of the [2][State] Government to dissolve or supersede local boards in case of incompetence, default, or abuse of powers.

129. (1) If in the opinion of [1][the [2][State] Government] a local board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, [1][the [2][State] Government] may by an order published, with the reasons for making it, in the [3][*Official Gazette*], declare the local board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and, either—

(a) dissolve the board, or

(b) supersede it for a period to be specified in the order:

[4][Provided that the [2][State] Government may, from time to time, after making such inquiry as it may consider necessary, by an order published in the *Official Gazette*, extend the period of supersession of the board until such date as may be specified in the order or by like order curtail such period.]

(2) When a local board is dissolved or superseded, all members of the board shall, as from the date of the order, vacate their offices as such members.

Reconstitution of local board after dissolution.

130. When a local board is dissolved, it shall be reconstituted [5]* * * as if the term of office of its members had expired; and a president and vice-president of the board shall be elected in the manner provided in this Act.

Consequences of supersession of local board.

131. When a local board is superseded—

(a) all powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as [1][the [2][State] Government] from time to time appoints in that behalf; such person or persons may appoint a person or a committee or committees and delegate to them all the powers which the local board could have delegated to a person or committee under this Act, and empower such person or committee or committees to perform the duties which a board could have delegated; and

(b) all property vested in the board shall, during the period of supersession, [6][vest in the [2][State Government];

(c) when more persons than one are appointed to exercise the powers and perform the duties of the board, such persons may authorize one or more of their number to sue or be sued on their behalf.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] This proviso was added by Bom. 47 of 1949, s. 47.

[5] The words "by such nominations and elections as may be necessary" were deleted by Bom. I of 1938, s. 6.

[6] The words "vest in the Crown for the purpose of the Province" were substituted for the words "vest in the Government" by the Adaptation of Indian Laws Order in Council.

[7] These words were substituted for the words "Crown, for the purpose of the Province" by the Adaptation of Laws Order, 1950.

Power of [5][State] Government to dissolve and reconstitute local boards on the alteration of limits of districts.[11*]

[1][131A. (*1*) When, on account of the constitution of a new district under the Bombay Land Revenue Code, 1879, [2][or under sub-section (*2*) of section 3A], or for any other reason, the limits of a district [3*] * are, during the term of office of the members of the district [3*] * local board, altered, [4][the [5][State] Government] may, by order published in the [6][*Official Gazette*], dissolve such local board from a date specified in the order and direct a local board— Bom. V of 1879.

(*i*) to be reconstituted for the district [3*] * of which the local board has [11*] been dissolved, or

(*ii*) to be established for a new district [3*] * which has been constituted.

The members of the local board which has been dissolved shall vacate their offices from the date specified in the order.

(*2*) The district [3*] * local board reconstituted or established under the provisions of sub-section (*1*) shall consist of members nominated by [7][the [5][State] Government]. Such members shall, so far as may be practicable in the opinion of [7][the [5][State] Government], be persons who were members of the local [8][board which has] been dissolved under sub-section (*1*).

The president and vice-president of the local board so reconstituted or established shall be elected in the manner provided in this Act.

(*3*) The members of a local board reconstituted or established under the provisions of sub-section (*2*) shall hold office for such period, not exceeding [9][three years], as [4][the [5][State] Government] shall, by order in writing, specify.

(*4*) On the expiry of the period of office of the members of a local board under the provisions of sub-section (*3*), the local board of the district [3*] * [10*] * shall be constituted in the manner provided in sections 5 and 6.]

Vesting of property, etc., of local boards which have been dissolved in reconstituted local boards.

[1][131B. (*1*) When a local board has been dissolved and reconstituted or established under section 131A, so much of the local fund and other property vesting in the local board which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, a local board reconstituted or established under section 131A as the Commissioner may, by order in writing direct.

(*2*) The rights and liabilities of the local board which has been dissolved in respect of civil and criminal proceedings, contracts, agreements, and other matter or thing arising in or relating to any part of the area subject to the authority of the local board reconstituted or established, shall vest in such local board.

(*3*) Any notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by the local board which has been dissolved, in respect to any part of the area subject to the authority of the local board which

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[1] Sections 131A and 131B were inserted by Bom. 5 of 1932, s. 4.
[2] This portion was inserted by Bom. 19 of 1948, s. 8.
[3] The words "or taluka" were deleted by Bom. 47 of 1949, s. 48 (*1*).
[4] The words "The Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.
[7] The words "the Provincial Government" were substituted for the word "Government", *ibid.*.
[8] These words were substituted for the words "boards which have" by Bom. 47 of 1940, s. 48 (*2*).
[9] These words were substituted for the words "two years" by Bom. 27 of 1951, s. 2.
[10] The words "as the case may be" were deleted by Bom. 47 of 1940, s. 48 (*4*).
[11] The words "or talukas" were deleted, *ibid.*, s. 48 (*5*).

has been reconstituted or established, shall be deemed to have been made, issued or imposed by such local board, unless and until it is superseded by any notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by such local board.]

131C. [*Vesting of property, etc., of a taluka local board which has ceased to exist in the district local board.*] *Repealed by Bom. 47 of 1949, s. 49.*

132. In all matters connected with this Act, [1][the [2][State] Government] and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively as they have and exercise over them in the general and revenue administration. Powers of [1][the [2][State] Government] and of Commissioners over Collectors, etc.

CHAPTER XI—RULES.

133. [1][The [2][State] Government] may by notification in the [3][*Official Gazette*] from time to time make rules or orders, consistent with this Act— Purposes for which rules and orders may be made.

[4][(*a*) prescribing the number of members of each local board, the number and extent of the constituencies by which members of a local board shall be elected, the number of members to be elected by each constituency and the number of seats, if any, to be reserved for women, [5][Scheduled Castes and Scheduled Tribes];

[6]* * * * * *

(*b*) determining the mode in which and the places at which, and the authorities, if any, under whose supervision elections of members of local boards shall be held, and the manner in which votes thereat shall be recorded, and how and by whom the results of such elections shall be declared;

[7][(*ba*) prescribing the manner in which an order of requisition shall be served under sub-section (*2*) of section 137A and the time within which an application for referring the matter of compensation to an arbitrator shall be made under section 137B;]

(*c*) prescribing such general conditions as shall seem fit as to the manner in which the business of local boards shall be conducted;

[8][(*cc*) prescribing the number of members of a taluka committee, the manner of appointment of such members and regulating the exercise of powers, and performance of duties by taluka committees;]

(*d*) prescribing, for the purposes of clause (*i*) of section 50, the conditions under which, and the rates at which, payment of travelling expenses shall be made;

[9]* * * * * *

(*f*) prescribing for the purposes of sections 83, 84 and sub-section (*1*) of section 86 the form in which the accounts of local boards shall be kept and the forms in which their abstracts of account and budget estimates shall be prepared and regulating the audit of local board accounts;

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] This clause was substituted for the original by Bom. 41 of 1947, s. 4 (*5*).

[5] These words were substituted for the words "Muslims, Harijans, Backward Tribes and Indian Christians" by Bom. 17 of 1950, s. 4 (*5*).

[6] Clauses (*a*) and (*a2*) were deleted by Bom. 41 of 1947, s. 4 (*5*).

[7] Clause (*ba*) was inserted by Bom. 11 of 1954, s. 13.

[8] Clause (*cc*) was inserted by Bom. 6 of 1935, s. 5.

[9] Clause (*e*) was deleted by Bom. 47 of 1949, s. 50.

(*g*) regulating, for the purposes of sections [1][120 and 122 and clause (*ee*)] of and proviso (*i*) to section 123 the appointment, control, punishment and dismissal of the officers and servants of local boards and the extent of contributions to the pensions and leave allowances of Government officers employed by local boards ;

[2]*

[3][(*ga*) regulating for the purposes of section 123A the classification, methods of recruitment, conditions of service, salary and allowances, and discipline and conduct of persons forming the common cadre of Engineers ; vesting jurisdiction in such matters in the State Government or other authorities and prescribing the extent of salary and contributions towards leave allowances, pension and provident fund to be recovered from local boards in respect of such persons ;]

(*h*) generally, for the guidance of local boards and Government officers in all matters connected with the administration of this Act and not therein specially provided for :

Provided that rules made under this section shall be made after previous publication.

CHAPTER XII—MISCELLANEOUS.

Penalty for member, officer or servant of a local board having an interest in any contract, etc., with that board.

134. If any member of a local board or any officer or servant maintained by or employed under a local board, has directly or indirectly any share or interest in any work done by order of the board of which he is a member or by which he is maintained or under which he is employed or in any contract with or under such board, he shall be liable on conviction before a Magistrate to a fine not exceeding rupees five hundred :

Provided that no person shall be convicted under this section by reason only of such person—

(*a*) having a share in any joint stock company or a share or interest in any society registered or deemed to be registered under the [4][Bombay Co-operative Societies Act, 1925] which shall contract with or be employed by or on behalf of the local board, or Bom VII of 1925.

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted, or

(*c*) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board, or

(*d*) being professionally engaged on behalf of the local board as a legal practitioner.

Members, etc., of boards to be public servants.

135. Every member of a local board and every officer and servant maintained by or employed under a district local board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Limitation of suits, etc.

[5][**136.** (*1*) No suit shall be commenced against any local board, or against any officer or servant of a local board, or any person acting under the orders of a local board, for anything done, or purporting to have been done, in pursuance of this Act, without giving to such local board, officer, servant, or person one month's previous notice in writing of the intended suit and of the cause thereof, nor after three months from the date of the act complained of.

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[1] The figures, words, letters and brackets "120 and 122 and clause (*ee*)" were substituted for the figures "120, 122" by Bom. 8 of 1934, s. 6.

[2] The word "and" was deleted by Bom. 43 of 1955, s. 8 (*1*).

[3] This clause was inserted *ibid.*, s. 8 (*2*).

[4] The words and figures "Bombay Co-operative Societies Act, 1925" were substituted for the words and figures "Co-operative Societies Act, 1912" by Bom. 47 of 1949, s. 51.

[5] This section was substituted for the original by Bom. 10 of 1949, s. 14.

(*2*) In the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.]

[1][**137.** [2][Save as otherwise provided in sections 137A to 137E when any land] is required for the purposes of this Act, [3][the [4][State Government] may, on the reqest of the local board requiring it, proceed to acquire it under the provisions of the [5]Land Acquisition Act, 1894, or other law for the time being in force, and, on payment by the local board of the compensation awarded under that Act and of all other charges incurred by [3][the [4][State] Government] on account of the acquisition, the land shall vest in the local board.] Acquisition of land.

I of 1894.

[6][**137A.** (*1*) If on a request made by a president of a district local board in that behalf or on its or his own motion it appears to the State Government or an officer authorized by the State Government (hereinafter referred to as the requisitioning authority) that in connection with an election under this Act— Requisitioning of premises, vehicles, etc., for election purposes.

(*a*) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(*b*) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election,

the requisitioning authority may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning :

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(*2*) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served in the manner prescribed by rules under this Act on the person to whom it is addressed.

(*3*) Whenever any property is requisitioned under sub-section (*1*), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

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[1] This section was substituted for the original by Bom. 10 of 1927, s. 13.
[2] These words, figures and letters were substituted for the words "When any land" by Bom. 11 of 1954, s. 14.
[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] See Central Acts.
[6] Sections 137A to 137G were inserted by Bom. 11 of 1954, s. 15.

(*4*) In this section—

(*a*) 'premises' means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(*b*) 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

Payment of compensation.

137B. (*1*) Whenever in pursuance of section 137A the requisitioning authority requisitions any premises, the local board shall pay to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(*i*) the rent payable in respect of the premises or if no rent is so payable the rent payable for similar premises in the locality;

(*ii*) if in consequence of the requisition of premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules under this Act for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by he requisitioning authority to an arbitrator appointed in this behalf by the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression 'person interested' means the person who was in actual possession of the premises requisitioned under section 137A immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(*2*) Whenever in pursuance of section 137A the requisitioning authority requisitions any vehicle, vessel or animal, the local board shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning authority on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the time prescribed by rules under this Act to the requisitioning authority for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine:

Provided further that where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the requisitioning authority in this behalf may decide.

Power to obtain information.

137C. The requisitioning authority may, with a view to requisitioning any property under section 137A or determining the compensation payable under section 137B by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Powers of entry into and inspection of premises, etc.

137D. (*1*) Any person authorized in this behalf by the requisitioning authority may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so, in what manner, an order under section 137A should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.

(*2*) In this section, the expressions 'premises' and 'vehicle' have the same meanings as in section 137A.

Eviction from requisitioned premises.

137E. (*1*) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 137A may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(*2*) Any officer so empowered may after giving to any woman not appearing in public, reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

Release of premises from requisition.

137F. (*1*) When any premises requisitioned under section 137A are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises, and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(*2*) Where the person to whom possession of any premises requisitioned under section 137A is to be given under sub-section (*1*) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the *Official Gazette*.

(*3*) When a notice referred to in sub-section (*2*) is published in the *Official Gazette*, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the requisitioning authority or the local board shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Penalty for contravention of any order regarding requisitioning.

137G. If any person contravenes any order made under section 137A or section 137C he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.]

SCHEDULE A.

(See clause (a) of section 93.)

1. Penalties and fines, including any charge imposed under section 148 of the Bombay Land Revenue Code, 1879, as penalty or interest in case of default, but not including any fine, levied under section 65 of the same on grant of permission to use land for a purpose unconnected with agriculture. Bom. V of 1879.

2. Occasional fixed payments, in commutation of all claims of [1][the [2][State] Government], in respect of succession to or transfer of inams, payable on each succession or transfer.

3. Land revenue on service inam land, recovered from inferior village servants for periods of unauthorized absence from service ; and all other such charges of assessment on inams and watans for broken periods and past years.

4. Fees for grazing when charged per head of cattle.

SCHEDULE B.

(See sub-section (2) of section 100.)

FORM OF NOTICE OF PROPOSED TAX.

Notice is hereby given to the inhabitants of the district of that the district local board desires to impose the tax, rate, toll, octroi, or cess (as the case may be) defined in the rules appended [in lieu of the tax known as the , which is published at page of the sanctioned rules*].

*To be inserted if the tax is to be substituted for any existing tax.

Any inhabitant of the district objecting to the proposed tax may, within one month from the date of this notice, send his objection in writing to the district local board.

RULES.

(The rules prepared by the district local board under sub-section (1) of section 100 are to be appended here.)

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by Adaptation of Laws Order, 1950.

SCHEDULE C.

(*See sub-section (3) of section 104.*)

FORM OF NOTICE OF DEMAND.

To

A. B., residing at

Take notice that the district local board of demands from the sum of due from on account of

(*Here describe the property or other subject in respect of which the tax is leviable.*)

leviable under rule No. for the period of commencing on the day of 19 and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the local board office at , and sufficient cause for non-payment is not shown to the satisfaction of the district local board, a warrant of distress will be issued for the recovery of the same with cost.

Dated this day of 19

(Signed)
By order of the district local board of

SCHEDULE D.

(*See section 105.*)

FORM OF WARRANT.

(*Here insert the name of the officer charged with the execution of the warrant.*)

Whereas *A. B.* of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 , and ending with the day of 19 , and leviable under rule No ;

*Here describe the tax.

And whereas fifteen days have elapsed since the service on him of notice of demand for the same ;

This is to command you to distrain, subject to the provisions of sections 108 and 109 of the Bombay Local Boards Act, 1923, the goods and chattels of the said *A. B.* to the amount of , being the amount due from him, as follows :—

	Rs.	a.	p.
On account of the said tax			
For service of notice			

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this day of 19

(Signed)

President.

(or as the case may be, *see* section 106.)

SCHEDULE E.

(*See clause* (c) *of section 109 and sub-section* (*1*) *of section 116.*)

FORM OF INVENTORY AND NOTICE.

To

A. B.

residing at

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 together with Rs. due as for service of notice of demand and that unless within five days from the day of the date of this notice you pay into the local board office at the said amount together with the cost of recovery, the said goods and chattels will be sold.

*Here describe the tax.

Dated this day of 19

(Signature of officer executing the warrant.)

INVENTORY.

(*Here state particulars of goods and chattels seized.*)

THE BOMBAY PREVENTION OF PROSTITUTION ACT, 1923.

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BOMBAY ACT No. XI OF 1923.[1]

[THE BOMBAY PREVENTION OF PROSTITUTION ACT, 1923.]

[*27th October 1923.*]

Amended by Bom. 9 of 1926.
,, ,, ,, 9 of 1927.
,, ,, ,, 12 of 1930.
,, ,, ,, 20 of 1931.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 7 of 1943.†
,, ,, ,, 17 of 1945.§
,, ,, ,, 26 of 1948.

An Act to consolidate and amend the Law relating to Prostitution in the City of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to prostitution in the City of Bombay and to provide for the extension thereof to other local areas in the Presidency of Bombay, and WHEREAS the previous sanction of the Governor-General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for passage of this Act; It is hereby enacted as follows:—

Short title.

1. (*1*) This Act may be called the Bombay Prevention of Prostitution Act, 1923.

Extent: Extension.

(*2*) This section, section 6, [2][section 8 (*3*)], section 9, [3][section 12 and section 13, sub-section (*1*)] extend to the whole of the Bombay Presidency. The rest of this Act shall extend in the first instance to the [4][Greater Bombay] but [5][the Provincial Government] may by notification extend to any other local area all or any of its provisions, with such verbal modifications as having regard to the principles of this Act may be necessary, for the purposes of such extension.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1923, Part V, pp. 22-23; for Report of Select Committee, see *ibid.*, pp. 28-29; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1923, Vol. X.

[2] The word, brackets and figures "section 8 (*3*)" were substituted for the original words, brackets and figures "sub-section 8 (*3*)" by Bom. 9 of 1926, s. 2.

[3] The words, brackets and figures "section 12 and section 13, sub-section (*1*)" were substituted for the original words and figures "and section 12", *ibid.*

[4] The words "Greater Bombay" were substituted for the words "City of Bombay" by Bom. 17 of 1945, section 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[5] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

† This Act was repealed and re-enacted by Bom. 26 of 1948, s. 2.

§ This Act was repealed and re-enacted and amendments made by section 9 and Schedule E were continued in force by Bom. 52 of 1947, s. 2.

Definition.

*2. In this Act, unless there is anything repugnant in the subject or context,—

[1]" brothel " means any house, room or place, or any part thereof, occupied or let or intended to be occupied or let as a single tenement, which is habitually used by more than one person for the purposes of prostitution [2][and includes—

(*1*) where any house, room or place, or any part thereof is divided into cubicles by any means including cloth or canvass curtains, or wooden, cement, corrugated iron, asbestos or brick partitions and such cubicles are used for the purposes of prostitution, every such cubicle used for such purposes whether by one or by more than one person;

(*2*) any room or place or any part thereof which is used for the purposes of prostitution, whether by one or by more than one person and the floor area of which is less than one hundred square feet and the cubic area of which is less than one thousand cubic feet;

(*3*) a self-contained flat used for the purposes of prostitution by more than one person, whether as independent tenants of different rooms or parts therein or otherwise.]

" place of public amusement " shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted; and shall include a race-course, circus, theatre, [3][cinema], music hall, billiard-room, bagatelle-room, gymnasium, [4][fencing school or dancing school];

" place of public entertainment " shall mean any place whether enclosed or or open, to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place; and shall include a refreshment-room, eating-house, coffee-house, liquor-house, boarding-house, lodging-house, hotel, tavern or wine, beer, spirit, arrack, toddy, ganja, bhang or opium shop.

Soliciting.

*3. Whoever in any street or public place or place of public resort or within sight of and in such manner as to be seen or heard from any street or public place, whether from within any house or building or not,—

(*a*) by words, gestures; wilful and indecent exposure of his person or otherwise attracts or endeavours to attract attention for the purpose of prostitution, [5][or carnal intercourse] [6][or any act of gross indecency] or

(*b*) solicits or molests any person or loiters for the purpose of prostitution, [5][or carnal intercourse] [6][or any act of gross indecency],

shall be punished with imprisonment for a term which may extend to [7][six months] or with fine which may extend to [8][five hundred rupees or with both].

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* The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District: and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

[1] This definition was substituted for the original definition by Bom. 12 of 1930, s. 2.
[2] This portion was added by Bom. 26 of 1948, s. 3 (*i*).
[3] This word was inserted, *ibid.*, s. 3 (*ii*) (*a*).
[4] These words were substituted for the original, *ibid.*, s. 3 (*ii*) (*b*).
[5] These words were inserted by Bom. 12 of 1930, s. 3.
[6] These words, were inserted by Bom. 26 of 1948, s. 4 (*i*).
[7] The words " six months " were substituted for the original words, *ibid.*, s. 4 (*ii*).
[8] These words were substituted for the original, *ibid.*, s. 4 (*iii*).

Prostitutes in places of public amusement.

*4. Whoever being the keeper of any place of public amusement or entertainment [1][Turkish bath, massage establishment, beauty parlour, manicure room, pedicure room, knitting room, embroidery room or other similar place by whatever name or description known], knowingly permits prostitutes, or persons of notoriously bad character, for the purposes of their trade to meet or remain in such place, shall be punished with [2][imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both].

Living on the earnings of prostitution.

*5. (*1*) Any [3][person not below the age of 16 years] who knowingly lives, wholly or in part, on the earnings of prostitution [4][of another person] shall be punished with imprisonment which may extend to [5][three] years, or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishments.

Presumption thereof.

(*2*) Where [6][any] person is proved to be living with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person or generally, [7][or to be keeping or managing or assisting in the management of a brothel] it shall be presumed, until the contrary is proved, that he is knowingly living on the earnings of prostitution.

Procuration.

6. Any person who procures or attempts to procure any woman or girl, whether with or without her consent, [8][for the purposes of prostitution], or who with intent that she may for the purposes of prostitution become the inmate of or frequent a brothel, persuades a woman or girl to leave her usual place of abode, shall be punished with imprisonment which may extend to three years or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishments.

Importing woman or girl for prostitution.

*7. Any person who brings or attempts to bring into the [9][Greater Bombay] any woman or girl [10][whether a prostitute or not, for the purposes of prostitution], shall be punished with imprisonment which may extend to three years or with fine which may extend to one thousand rupees, or with whipping or with any two of those punishments.

Unlawful detention for prostitution:

8. †(*1*) Whoever detains any woman or girl against her will,—

(*a*) in any house, room or place in which the business of a common prostitute is carried on, or

(*b*) in or upon any premises with intent that she may have sexual intercourse with any man, other than her husband, whether any particular man or generally,

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* The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

[1] This portion was inserted, by Bom. 26 of 1948, s. 5.

[2] This portion was substituted for the original, *ibid.*

[3] These words were substituted for the words "male person" by Bom. 12 of 1930, s. 4 (*a*) (*i*).

[4] These words were inserted, *ibid.*, s. 4 (*a*) (*ii*).

[5] The word "three" was substituted for the word "two", *ibid.*, s. 4 (*a*) (*iii*).

[6] The word "any" was substituted for the words "a male", *ibid.*, s. 4 (*b*) (*i*).

[7] These words were inserted, *ibid.*, s. 4 (*b*) (*ii*).

[8] These words were substituted for the original by Bom. 26 of 1948, s. 6.

[9] The words "Greater Bombay" were substituted for the words "City of Bombay" by Bom. 17 of 1945, section 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[10] These words were substituted for the original by Bom. 26 of 1948, s. 7.

† The provisions of this sub-section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia, the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

shall be punished with imprisonment which may extend to two years, or with fine which may extend to one thousand rupees, or with whipping or with any two of those punishments.

presumption thereof:

*(2) Where a woman or girl is in any house, room or place in which the business of a common prostitute is carried on or is in or upon any premises for the purpose of having sexual intercourse referred to in sub-clause (1) (b), a person shall be deemed to detain such woman or girl in such house, room, place or in or upon such premises if, with intent to compel or induce her to remain there, such person withholds from her any wearing apparel, personal ornaments or other property belonging to her; or, where wearing apparel, personal ornaments, other personal property, or money has been lent or otherwise supplied to such woman or girl by or by the direction of such person, if such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel or personal ornaments or other personal property so lent or supplied, or for recovery of such money.

bar of certain legal proceedings.

(3) No civil suit shall lie and no proceedings whether civil or criminal shall be taken, against any such woman or girl or against any person on her behalf, by or on behalf of any person occupying or managing or acting or assisting in the management of any such house, room, place or premises, for the recovery of any wearing apparel, personal ornaments or other property alleged to have been lent or supplied to or for such woman or girl or to have been pledged by or for her or for the recovery of any money alleged to be payable by or on behalf of such woman or girl.

No punishment of whipping under sections 5 to 8 for females.

[1]†[8A. Nothing in sections 5, 6, 7 and 8 shall render a female liable to be punished with whipping.]

Punishment for letting, or permitting use of premises as a brothel.

[1]‡[8B. Any person who—

(a) being the owner, tenant, lessee, occupier, or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel; or

(b) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof, with the knowledge that the same or any part thereof may be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof, as a brothel;

shall be punished with imprisonment, which may extend to three months, or with fine which may extend to [2][one thousand] rupees, or with both.]

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* The provisions of this sub-section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

† The provisions of this section have been extended to the Bombay Suburban District; the towns of Ahmedabad, Nasik, Dhulia, Ahmednagar and Belgaum; Poona Taluka; the (revenue) villages of Dapodi, Bopkhel, Kalas, Hadapsar and Kondna Khurd in the Haveli taluka of the Poona district; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon

‡ This section has been extended to the Bombay Suburban District, and the towns of Poona and Belgaum.

[1] Sections 8A, 8B, 8C and 8D were inserted by Bom. 12 of 1930, s. 5.

[2] These words were substituted for the original by Bom. 26 of 1948, s. 8.

[1]*[8C. Any person who, having been convicted of an offence punishable under section 8B, is convicted of a subsequent offence punishable under the said section, shall be punished with imprisonment, which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and may, in addition to such punishment, be required by the Court to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Court may direct, and, in default of executing such bond, may be imprisoned for a period not exceeding six months in addition to any punishment awarded in respect of his offence.] Punishment for subsequent offence.

[1]*[8D. (*1*) On conviction of the tenant, lessee or occupier of any offence under section 8B, clause (*a*), the convicting court shall give notice thereof in writing to the landlord or lessor, who shall then be entitled to require the person so convicted to assign the lease or other contract, under which the said premises are held by him to some person approved by the landlord or lessor, which approval shall not be unreasonably withheld, and, in the event of the person so convicted failing within three months to assign the lease or contract as aforesaid, the landlord or lessor shall be entitled to determine the lease or other contract, but without prejudice to the rights or remedies of any party to such lease or contract accruing before the date of such determination. Determination of tenancy of premises on conviction for permitting use as a brothel or for purposes of habitual prostitution.

(*2*) If the landlord or lessor determines a lease or contract of tenancy under the provisions of sub-section (*1*), the Court which has convicted the tenant, lessee or occupier may make an order for delivery of possession to the landlord or lessor within such time not being less than seven days as the Court may direct. The order shall be served on the person against whom it is made in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, and if such person fails to comply with it, he shall be punished with imprisonment which may extend to one month or with fine which may extend to two hundred rupees or with both.

V of 1898.

(*3*) If the landlord or lessor, after he has received notice in writing of such conviction, fails to exercise his rights under sub-section (*1*) and subsequently during the subsistence of the lease or contract any such offence is again committed in respect of the premises, the landlord or lessor shall be deemed to have abetted that offence, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

(*4*) Where a landlord or lessor determines a lease or other contract under this section, and subsequently grants another lease or enters into another contract of tenancy to or for the benefit of the same person, without causing to be inserted in such lease or contract all reasonable provisions for the prevention of a recurrence of any such offence, he shall be deemed to have failed to exercise his rights under the provisions of this section, and any such offence committed during the subsistence of the subsequent lease or contract shall be deemed, for the purposes of this section, to have been committed during the subsistence of the previous lease or contract.]

9. (*1*) The Commissioner of Police may at any time cause a notice to be served upon any person who occupies or manages or acts or assists in the management of, or upon any woman who resides in, uses or frequents, any house, room, or place [2][Removal of prostitutes.]

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* This section has been extended to the Bombay Suburban District, and the towns of Poona and Belgaum.

[1] Sections 8A, 8B, 8C and 8D were inserted by Bom. 12 of 1930, s. 5.

[2] This marginal note was substituted for the original by Bom. 26 of 1948, s. 9.

in the [1][Greater Bombay] in which the business of a common prostitute is carried on, requiring such person or woman after a date to be mentioned in the notice, which shall not be less than seven days from the date of the notice, not to reside in, use or frequent any street or place specified in the notice; or directing such person or woman after a date to be mentioned and fixed as aforesaid to remove himself or herself to such place, whether within or without the [1][Greater Bombay] by such route or routes and within such time as the Commissioner of Police shall prescribe.

(*2*) If any person or woman so directed under sub-section (*1*) fails or refuses to remove himself or herself as directed within the time specified the Commissoner of Police may cause such person or woman to be arrested and removed in police custody to the place prescribed.

(*3*) No direction under the second alternative in sub-section (*1*) shall be made without the previous sanction of [2][the Provincial Government].

Penaltics. (*4*) Any person on whom a notice under this section shall have been served, disobeying the requisition therein contained, shall be punished with imprisonment for a term which may extend—

(*a*) in the case of a first offence to one month, and

(*b*) in the case of a second or subsequent offence, to three months.

(*5*) Whoever, within two years from the date of his removal under the provisions of this section, returns to any place within the [1][Greater Bombay], without the permission in writing of the Commissioner of Police, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

[3][(*6*) (*a*) Elsewhere than in the [1][Greater Bombay] all or any of the powers conferred by this section on the Commissioner of Police for the [1][Greater Bombay] may be exercised, as regards his district or part of his district, by the District Magistrate when empowered in that behalf by the [2][Provincial Government] by a notification in the [4][*Official Gazette*].

(*b*) Any person on whom a notice issued by the District Magistrate under the powers exercisable by him under clause (*a*) shall have been served, disobeying the requisition therein contained shall be liable to the punishment provided in sub-section (*4*).

(*c*) Whoever, within two years from the date of his removal under the provisions of this sub-section, returns to any place within the district from which he has been removed without the permission in writing of the District Magistrate shall be liable to the punishment provided in sub-section (*5*).]

Commissioner of Police to serve notice on landlord not to permit house, etc., to be used for prostitution.

[5]**9A.** (*1*) In any case where the Commissioner of Police causes a notice to be served in refernece to any house, room or place under sub-section (*1*) of section 9, he may, if he thinks fit, cause a notice to be served on the landlord or lessor or the agent of such landlord or lessor in charge of the said house, room or place, requiring him not to permit the said house, room or place or any other room in the same house to be used for carrying on the business of a common prostitute.

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[1] The words "Greater Bombay" were substituted for the words "City of Bombay" by Bom. 17 of 1945, section 9 and Schedule E, read with Bom. 52 of 1947, s. 2., proviso.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] Sub-section (*6*) was added by Bom. 9 of 1926, s. 4.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[5] This section was inserted by Bom. 7 of 1943, s. 2, read with Bom. 26 of 1948, s. 2.

(*2*) Any person, who having received a second notice under sub-section (*1*) of this section knowingly permits the said house, room or place or any other room in the same house to be used for carrying on the business of a common prostitute after the date mentioned in the corresponding notice caused to be served in reference to the said house, room or place under sub-section (*1*) of section 9, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both. Offence of so permitting after second notice.

(*3*) In all prosecutions under this section, when any house, room or place is proved to have been used for carrying on the business of a ommon prostitute it shall be presumed that it was knowingly permitted to be so used, unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when the house, room or place was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute.] Presumption as to knowledge.

[1][**9B.** (*1*) Whoever carries on the business of common prostitute in any premises— Common prostitute in vicinity of public places.

(*a*) which are adjacent or opposite to, or within a distance of one hundred and fifty yards of, any place of public religious worship, educational institution, public park, public playground, cinema, theatre or railway station, or on a thoroughfare over which tramcars run, or

(*b*) which are notified in this behalf, in Greater Bombay by the Commissioner of Police and elsewhere by the District Magistrate, in the manner prescribed by rules made by the Provincial Government,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(*2*) Any person who—

(*a*) being the owner, tenant, lessee, occupier or person in charge of any premises situate as described in clause (*a*) or notified under clause (*b*) of sub-section (*1*) knowingly permits the same or any part thereof to be used for carrying on the business of a common prostitute, or Punishment for permitting premises to be used for business of common prostitutes.

(*b*) being the lessor or landlord of any premises so situate or notified, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for carrying on the business of a common prostitute, or is wilfully a party to the continued use of such premises or any part thereof for carrying on the business of a common prostitute,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*3*) In all prosecutions under this section against a lessor, landlord or the agent of a lessor or landlord, when any premises or part thereof is proved to have been used for carrying on the business of a common prostitute, it shall be presumed that the premises or part thereof was let with the knowledge that it may be so used unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when it was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute.] Presumption as to knowledge.

[1] This section was inserted by Bom. 26 of 1948, s. 10.

Arrest without warrant.

*10. [1][(*1*) Any police officer on information, and, if the offence is committed in his view, any police officer specially authorized in this behalf by the Commissioner of police, may arrest without a warrant any person committing any offence punishable under section 3.]

(*2*) Any police officer may, without an order from a magistrate and without a warrant arrest any person who has been concerned in any offence punishable under section 8 or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in an offence under that section or of his having committed an offence under section 9, sub-section (*5*).

11. [*Power to enter premises.*] *Repealed by Bom. 12 of 1930, s. 6.*

Offences triable by certain magistrates only.

12. Offences punishable under sections 5, 6, 7, [2][8 and 9A] shall be triable by the Courts of Session, stipendiary Presidency Magistrates and stipendiary Magistrates of the First Class only.

Repeals and amendments.

13. (*1*) [*The repeals and amendments made by sub-section* (*1*) *in the City of Bombay Police Act, 1902, have been incorporated in the principal Act.*] Bom IV of 1902.

†(*2*) In any municipal district [3][or municipal borough] to which section 3 may be extended under section 1, sub-section (*2*), section 152 of the Bombay District Municipal Act, 1901 [4][or section 188 of the Bombay Municipal Boroughs Act, 1925, as the case may be], shall be deemed to have been repealed from the date of such extension. Bom. III of 1901; Bom. XVIII of 1925.

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[1] Sub-section (*1*) was substituted for the original sub-section (*1*) by Bom. 9 of 1926, s. 5.

[2] The figures, letter and word "8 and 9A" were substituted for the original word and figure "8" by Bom. 7 of 1943, s. 3, read with Bom. 26 of 1948, s. 2.

[3] The words "or municipal borough" were inserted by Bom. 20 of 1931, s. 2 (*1*).

[4] These words and figures were inserted *ibid.*, s. 2 (*2*).

* The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia, the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusaval and the Bombay Suburban District.

† The provisions of this sub-section have been extended to the towns of Ville Parle, Ghatkopar, Kirol and Juhu in the Bombay Suburban District; and to the municipal boroughs of Sholapur, Pandharpur, Poona City, Poona Suburban, Belgaum, Bandra, Ahmedabad, Ahmednagar, Dhulia, Nasik, Kurla, Surat, Bhusawal and Jalgaon.

The Cattle-trespass (Amendment) Act, 1924 (Bom. IX of 1924), at p. 1523 had no longer remained in force in view of the provisions of Bombay Act IV of 1926 and the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.

The Bombay Prevention of Adulteration Act, 1925 (Bom. V of 1925), at pages 1525–1536-B has been repealed by the Prevention of Food Adulteration Act, 1954 (XXXVII of 1954), section 25.

THE BOMBAY BETTING TAX ACT, 1925.

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BOMBAY ACT No. VI OF 1925.[1]

[THE BOMBAY BETTING TAX ACT, 1925.]

[*26th November 1925.*]

Amended by Bom. 4 of 1931.

Amended by Bom. 2 of 1932, read with Bom. 23 of 1948, section 14.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 11 of 1943.

An Act to impose a tax on [2][certain forms of] betting.

WHEREAS it is necessary to make an addition to the public revenue of the Bombay Presidency and for that purpose to impose a tax on [2][certain forms of] betting:

AND WHEREAS the previous sanction of the Governor General required by section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6, Geo. V, c. 61.

1. This Act may be called the Bombay [3]* Betting Tax Act, 1925. Short title.

2. It extends to the whole of the Bombay Presidency. Extent.

3. (*1*) It shall come into operation [4]* * * in the first instance in— Operation.

(*a*) the City of Bombay, and

(*b*) the Cantonment of Poona.

(*2*) The [5][Provincial Government] may, by notification in the [6][*Official Gazette*], direct that this Act or any portion thereof shall come into operation in any other area in the Bombay Presidency on such date as may be specified in such notification:

[7]* * *

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1925, Part V, p. 62; for Report of Select Committee, see *ibid.*, 1925, Part V, pp. 259–62; and for Proceedings in Council, see Bombay Legislative Council Debates, 1925, Vols. XV and XVI.

[2] The words "certain forms of" were substituted for the word "totalisator" by Bom. 4 of 1931, s. 2.

[3] The word "Totalisator" was deleted, *ibid.*, s. 3.

[4] The words "on the first day of December 1925" were repealed, *ibid.*, s. 4.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[7] The proviso to sub-section (*2*) was omitted, *ibid.*

Definitions.

4. In this Act unless there is anything repugnant in the subject or context—

[1](*i*) "backer" includes any person who bets at a totalisator or with a licensed bookmaker;

(*ii*) "bet" includes "wager", and "betting" includes "wagering";

(*iii*) "prescribed" means prescribed by rules under this Act;

(*iv*) "licensee" means a person to whom a licence has been granted for horse-racing on a race-course under section 4 of the Bombay Race-courses Licensing Act, 1912; Bom. III of 1912.

[2][(*v*) "licensed bookmaker" means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a licence or permit issued by a licensee to enable him to carry on his business or vocation under the Bombay Race-courses Licensing Act, 1912, as specified in the licence or permit;] Bom. III of 1912.

[3](*vi*) "totalisator" means a totalisator in an enclosure which the licensees have set apart in accordance with the Bombay Race-courses Licensing Act, 1912, and includes any instrument, machine or contrivance known as the totalisator or any other instrument, machine or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles. Bom. III of 1912.

Tax on totalisator and payment thereof.

5. There shall be charged, levied and paid to the Government of Bombay out of all monies paid into any totalisator by way of stakes or bets a tax on backers hereinafter referred to as the totalisator tax at such rate not exceeding [4][12½ per cent.] of every sum so paid as the [5][Provincial Government] may from time to time notify [6]in this behalf; and such portion of the monies so paid into a totalisator as is equal to the amount of the totalisator tax at the rate notified as aforesaid by the [5][Provincial Government] in this behalf shall be deemed to have been paid by the backer on account of the totalisator tax and shall be received by the licensees on behalf of the Government of Bombay.

Totalisator tax to be paid to Government.

6. The licensees shall forward at the time and in the manner and to the officer prescribed in this behalf a return stating the total amount of the monies paid into the totalisator at any meeting and shall whenever required make over to the prescribed officer the amount of the tax collected at each meeting.

Inspection of totalisator accounts.

7. Every person having the custody or control of totalisator accounts shall, when required in writing by an officer empowered in this behalf by the [5][Provincial Government], permit such officer or an officer authorized in writing by him in this behalf to inspect and to take copies of them.

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[1] This clause was substituted for the original clause by Bom. 4 of 1931, s. 5 (*a*).

[2] This clause was inserted, *ibid.*, s. 5 (*b*).

[3] This clause was re-numbered as clause (*vi*) *ibid.*, s. 5 (*c*).

[4] These figures and words were substituted for the original by Bom. 2 of 1932, s. 42, read with section 14 of Bom. 23 of 1948 and section 9 of Bom. 2 of 1949.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] For Notification under this section, *see* Government Notification in the Revenue Department No. 4397A, dated the 17th June 1926, published in the *Bombay Government Gazette*, 1926, Part I, p. 1439.

Betting Tax.

[1][8. (*1*) There shall, as from such date as may be notified by the [2][Provincial Government] in this behalf, be charged, levied and paid to the Government of Bombay out of all monies paid or agreed to be paid to a licensed bookmaker by a backer in respect of a bet made in an enclosure set apart by the licensees in accordance with the provisions of the Bombay Race-courses Licensing Act, 1912, on any race, a tax, hereinafter referred to as the betting tax, at such rate not exceeding [3][12½ per cent.] of all such monies as the [2][Provincial Government] may notify in this behalf.

Bom. III of 1912.

(*2*) The betting tax shall be collected and paid to Government in such manner as may be prescribed.]

List of licensed bookmakers.

[1][9. (*1*) The licensees shall, at such times and in such manner as may be prescribed, forward to the prescribed officer returns setting out the names of the bookmakers licensed or permitted by them, from time to time, to carry on the business or vocation of a bookmaker.

(*2*) All licensed bookmakers shall keep accounts of all sums paid or agreed to be paid by backers in respect of bets, in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by [4][the Provincial Government], permit such officer, or any officer authorized in writing by him this behalf, to inspect and take copies of such accounts.]

Method of recovery of totalisator tax.

[5]**10.** The totalisator tax payable under section 5 shall be recoverable from the licensees as an arrear of land revenue.

Rules.

[5]**11.** The [2][Provincial Government] may make rules [6]for securing the payment of the totalisator tax, [7][and the betting tax], the production and inspection of accounts kept under this Act, and generally for carrying into effect the provisions of this Act and for dealing with such matters as are herein directed to be prescribed.

Amendment of section 3 of Bom. I of 1923.

Bom. I of 1923.

[5]**12.** [*The amendment made by this section has been incorporated in the Bombay Entertainments Duty Act, 1923.*]

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[1] Sections 8 and 9 were inserted by Bom. 4 of 1931, s. 6.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] These figures and words were substituted for the original by Bom. 2 of 1932, s. 42, read with section 14 of Bom. 23 of 1948 and section 9 of Bom. 2 of 1949.

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] These sections were re-numbered by Bom. 4 of 1931, s. 7.

[6] For Rules under this section, *see* Government Notifications, Revenue Department, No. 5457/E-24, dated the 22nd December 1925, published in the *Bombay Government Gazette*, 1925, Part I, pp. 3281-82, and No. 5457/24, dated 24th June 1931, published in the *Bombay Government Gazette*, 1931, Part I, pp. 1493–95.

[7] These words were inserted by Bom. 4 of 1931, s. 8.

THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925.

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SCHEDULE.

BOMBAY ACT No. VII OF 1925.[1]

[THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925.]

[*4th December 1925.*]

Amended by Bom. 8 of 1933 ;
,, ,, ,, 22 of 1935 ;
,, ,, ,, 8 of 1936 ;
,, ,, ,, 17 of 1936 ;
,, ,, ,, 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 29* of 1942 ;
,, ,, ,, 16* of 1943 ;
,, ,, ,, 28 of 1948 ;
,, ,, ,, 14 of 1949 ;
,, ,, ,, 53 of 1949 ;
,, ,, ,, 12 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 2 of 1952 ;
,, ,, ,, 22 of 1952 ;
,, ,, ,, 18 of 1953 ;
,, ,, ,, 41 of 1953 ;
,, ,, ,, 73 of 1954 ;
,, ,, ,, 12 of 1955.

An Act to consolidate and amend the law relating to Co-operative Societies in the Presidency of Bombay.

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Presidency of Bombay ; and whereas the previous sanction of the Governor-General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act : It is hereby enacted as follows :—

5 & 6 Geo. V. c. 61.

[2][CHAPTER I.
PRELIMINARY.]

Short title. 1. This Act may be called the Bombay Co-operative Societies Act, 1925.

Extent. 2. This Act extends to the whole of the Presidency of Bombay.

Definitions. 3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " by-laws " means by-laws registered under this Act and for the time being in force and includes a registered amendment of such by-laws ;

(*b*) " Committee " means the Committee of Management or other directing body to whom the management of the affairs of a society is entrusted ;

X of 1949 [3][(*bb*) " banking company " means a banking company as defined in clause (*b*) of section 5 of the Banking Companies Act, 1949 ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1924, Part V, pp. 46-48 ; for Report of Select Committee, *see ibid.*, 1924, Part V, pp., 108-13 and *ibid.*, 1925, Part V, pp. 68-70 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1924 and 1925 Vols. XII, XIII and XV.

* This Act has been repealed and re-enacted by Bom. 28 of 1948, s. 2.

[2] The words and figure " Chapter I—*Preliminary* " were substituted for the word " *Preliminary* " by Bom. 8 of 1936, s. 2.

[3] These clauses were inserted by Bom. 2 of 1952, s. 2.

(*b2*) " company " means a company as defined in clause (*2*) of sub-section (*1*) of section 2 of the Indian Companies Act, 1913, and includes a banking company ; VII of 1913. IX of 1932.

(*b3*) " firm " means a firm registered under section 59 of the Indian Partnership Act, 1932 ;]

(*c*) " Member " includes a person joining in the application for the registration of a society or a person admitted to membership after registration] [1][in accordance with this Act or] the rules and by-laws applicable to such society ;

(*d*) " Officer " includes a chairman, secretary, treasurer, member of committee or other person empowered under the rules or under the by-laws of a society to give directions in regard to the business of such society ;

(*e*) " Society " means a society registered or deemed to be registered under this Act ;

(*f*) " Registrar " means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act ;

(*g*) " Rules " means rules made under this Act ;

(*h*) (*1*) a "Resource society " means a society formed with the [object [of obtaining for its members the credit, goods or services required by them ;

(*2*) a " Producers' society " means a society formed with the object of producing and disposing of goods as the collective property of its members and includes a society formed with the object of the collective disposal of the labour of the members of such society ;

(*3*) a " Consumers' society " means a society formed with the object of obtaining and distributing goods to or of performing services for its members, as well as to other consumers and of dividing among its members and customers in a proportion prescribed by the rules or by the by-laws of such society, the profits accruing from such supply and distribution ;

(*4*) a "Housing society " means a society formed with the object of providing its members with dwelling houses on conditions to be determined by its by-laws ;

[2][(*5*) a " General society " means a society not falling under any of the classes of societies defined in any other clauses of this section ;

[3][(*6*) a " Federal society " means a society not less than three-fourths of the members of which are societies ;]

[4][(*7*) a " [Farming society " means a society formed with the object of promoting development of land and better methods of cultivation by means of improved seed, manure, irrigation, bunding, tractor ploughing, gully plugging and soil conservation.

Explanation.—A Farming society shall be of two classes :—(*1*) a Better farming society, and (*2*) a Co-operative farming society :—

(*i*) A Farming society shall be classed as a Better farming society if the predominant object is the application of improved methods of cultivation. A Better farming society includes a Crop protection society ;

(*ii*) A Farming society shall be classed as a Co-operative farming society if the predominant object is the application of Co-operative methods by the holders of lands and in respect of cultivation.]

The Registrar shall classify all societies under one or other of the above heads and his decision shall be final :

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[1] These words were substituted for the words "in accordance with " by Bom. 22 of 1952, s. 2 (*1*).
[2] This sub-clause was substituted for the original, *ibid.*, s. 2 (*2*) (*i*).
[3] Sub-clause (6) was inserted by Bom. 28 of 1948, s. 3 (*i*).
[4] This sub-clause was inserted by Bom. 14 of 1949, s. 2 (*i*).

[1][Provided that the Registrar for reasons to be recorded in writing may alter the classification of any society from one head to another head or from one sub-head to another sub-head.]

A society formed with the object of facilitating the operations of any one of the above classes of societies shall be classified as a society of that class.

A list of all such societies, so classified shall be published [2][triennially in such manner as the State Government may from time to time direct.]

[3][(*i*) "Tribunal" means the Bombay Co-operative Tribunal constituted under section 63A].

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[4][CHAPTER II.

REGISTRATION.]

Registrar.

4. [5][The [6][State] Government] may appoint a person to be Registrar of the Co-operative Societies for the presidency or any portion of it, and may appoint a person or persons to assist such Registrar, and may, by general or special order, confer on any such person or persons all or any of the powers of a Registrar under this Act.

Societies which may be registered.

[7][**5.** Subject to the provisions hereinafter contained a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles or a society established with the object of facilitating the operations of such a society may be registered under this Act with or without limited liability :

Provided that—

(*1*) unless the [6][State] Government by general or special order otherwise directs, the liability of a society of which a member is a society shall be limited ;

(*2*) the members of a society which has been registered under this Act with unlimited liability such liability not having been changed from unlimited to limited under this Act shall, on its liquidation, be jointly and severally liable for and in respect of all its obligations.]

Restrictions on interest of member of society with limited liability and a share capital.

6. Where the liability of the members of a society is limited by shares, no member other than a society [8][company or firm] shall—

(*a*) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules ; or

(*b*) have or claim any interest in the shares of the society exceeding [9][ten thousand] rupees : provided that if the society is a housing society a member may have or claim an interest in the shares of the society not exceeding [10][twenty thousand rupees].

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[1] This proviso was added by Bom 14 of 1949, s. 2 (*2*).

[2] These words were substituted for the words "annually in the *Official Gazette*" by Bom. 22 of 1952, s. 2 (*2*) (*ii*).

[3] Clause (*i*) was inserted by Bom. 28 of 1948, s. 3 (*ii*)

[4] The words and figures "Chapter II—*Registration*" were substituted for the word "*Registration*" by Bom. 8 of 1936, s. 2.

[5] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws of Order, 1950.

[7] Section 5 was substituted for the original by Bom. 28 of 1948, s. 4.

[8] These words were inserted by Bom. 2 of 1952, s. 3.

[9] The words "ten thousand" were substituted for the words "three thousand" by Bom. 28 of 1948, s. 5.

[10] The words "twenty thousand rupees" were substituted for the letters and figures "Rs. 10,000", *ibid.* s. 5.

Person who cannot be member.

[1][6A. No person shall be admitted as a member of a society, unless he is a person competent to contract under section 11 of the Indian Contract Act, 1872.] IX of 1872.

Conditions of registration.

7. (*1*) No society, other than a society of which a [2][member is a society, company or firm], shall be registered under this Act, which does not consist of at least ten persons [3][who are qualified to be the members under section 6A] and, where the object of the society is the creation of funds to be lent to its members, unless [4][all persons forming the society]—

(*a*) reside in the same town or village or in the same group of villages ; or

(*b*) save where the Registrar otherwise directs, are members of the same tribe, class[5]* or occupation [6][and no person shall be admitted to the membership of any such society after its registration unless such person fulfills the requirements of clause (*a*) or (*b*), as the case may be.]

(*2*) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

[7][(*3*) Nothing in the Bombay Co-operative Societies (Amendment) Act, 1952, shall be deemed to affect the registration of any society made before the said Act comes into force.] Bom. XXII of 1952.

Power of Registrar to decide certain questions.

8. When any question arises whether for the purpose of the formation, or registration or continuance of a society [8][or the admission of a person as a member of a society] under this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class [9]* or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Application for registration.

9. (*1*) For purposes of registration an application to register shall be made to the Registrar.

(*2*) The application shall be signed,—

(*a*) in the case of a society of which no [10][member is a society, company or firm], by at least ten persons qualified in accordance with the requirements of section 7, sub-section (*1*) ; and

[11][(*b*) in the case of a society of which a member is a society, company or firm, by a duly authorised person of every such society or company and by one of the partners of every such firm and where all the members of the society are not societies, companies or firms by ten other members or when there are less than ten other members, by all of them.]

(*3*) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

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[1] Section 6A was inserted by Bom. 22 of 1952, s. 3.

[2] These words were substituted for the words "member is a society" by Bom. 2 of 1952, s. 4.

[3] These words, figure and letter were substituted for the words "above the age of eighteen years" by Bom. 22 of 1952, s. 4 (*1*).

[4] These words were substituted for the words "such persons" by Bom. 28 of 1948, s. 6 (*i*).

[5] The word "caste" was deleted, *ibid.*, s. 6 (*ii*).

[6] These words, brackets and letters were inserted, *ibid.*, s. 6 (*iii*).

[7] This sub-section was added by Bom. 22 of 1952, s. 4 (*2*).

[8] These words were inserted by Bom. 28 of 1948, s. 7 (*i*).

[9] The word "caste" was deleted. *ibid.*, s. 7 (*ii*).

[10] These words were substituted for the words "member is a society" by Bom. 2 of 1952, s. 5 (*1*).

[11] This clause was substituted for the original, *ibid.*, s. 5 (*2*).

Registration.

10. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws.

Evidence of registration.

11. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Annual general meeting.

12. [1][(*1*)] Every society shall within a period of three months after the date fixed for making up its accounts for the year under the rules for the time being in force call a general meeting of its members :

[1][Provided that the Registrar may, by general or special order, extend the period for holding such meeting by a period not exceeding three months.]

[2][(*2*) If default is made in calling a general meeting within the period or the extended period, as the case may be, as prescribed under sub-section (*1*), the Registrar may by order declare any officer or member of the Committee whose duty it was to call such meeting and who without reasonable excuse failed to call such meeting, disqualified for being elected as and for being an officer or a member of the Committee for such period not exceeding three years as may be specified in such order and if the officer is a servant of the society fine him to an amount not exceeding one hundred rupees.

V of 1898. (*3*) Any fine imposed under sub-section (*2*) may be recovered in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines, imposed by a Court as if such fine were imposed by a Court.]

Special general meetings.

13. A special general meeting may be called at any time by a majority of the committee and shall be called within one month—

(*1*) on the requisition in writing of one-fifth of the members of the society or

(*2*) at the instance of the Registrar, [3][or

(*3*) in case of a society which is a member of a federal society, at the instance of an officer of such federal society.]

Change of name : its effect.

14. A society may, by a resolution of a general meeting and with the approval of the Registrar, change its name : but such change shall not affect any right or obligation of the society, or of any of its members, or past members and any legal proceedings pending may be continued by or against the society under its new name.

Amalgamation or transfer of societies.

15. (*1*) Any two or more societies may, with the approval of the Registrar by resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as a single society : provided that each member has had clear fifteen days' written notice of the resolution and the date of the meeting. Such an amalgamation may be effected

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[1] The original section 12 was renumbered as sub-section (*1*) and the proviso was added by Bom. 22 of 1952, s. 5 (*1*).
[2] Sub-sections (*2*) and (*3*) were inserted, *ibid*, s. 5 (*2*).
[3] These words, brackets and figures were added by Bom. 28 of 1948, s. 8.

without a dissolution, or a division of the funds, of the amalgamating societies. The resolution of the societies concerned shall on such amalgamation be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

(*2*) Any society may by a resolution passed in accordance with the procedure laid down in sub-section (*1*) transfer its assets and liabilities to any other society which is prepared to accept them :

Provided that when any such amalgamation or transfer of assets and liabilities involves the transfer of its liabilities by any society to any other society, it will not be made without giving three months notice to the creditors of both or all such societies :

Provided further that if a creditor or creditors of any of the societies concerned objects or object to such amalgamation or transfer of assets and liabilities and gives or give written notice to that effect to the society or societies concerned one month before the date fixed for such amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor or creditors have been satisfied.

Division [or conversion] of societies.

[1][**15A.** (*1*) Any society may, with the approval of the Registrar, by a resolution passed by a three-fourths majority of the members present [2][and voting] at a special general meeting of the society held for the purpose, resolve to divide itself into two or more societies [3][or to convert itself into a class of society the objects of which are materially different from that under which it has been classified under the Act,] provided that each member has had fifteen clear days written notice of the resolution and the date of the meeting. The resolution (hereinafter in this section referred to as a preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies in which it is proposed to divide it and may prescribe the area of operation of, and specify the members who will constitute, each of the new societies [4][or proposals containing detailed information in respect of the conversion of the society as aforesaid, as the case may be].

(*2*) A copy of the preliminary resolution shall be sent [5][or delivered] to all the members and creditors of the society. A notice of the resolution shall also be given in the prescribed manner to all other persons whose interests will be affected by the division [6][or conversion] of the society.

(*3*) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from his receipt of the resolution, intimate his intention not to become a member of any of the new societies [7][or to continue his membership in the converted society, as the case may be].

(*4*) Any creditor of the society may, notwithstanding any agreement to the contrary by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

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[1] Section 15A was inserted by Bom. 28 of 1948, s. 9.
[2] These words were inserted by Bom. 41 of 1953, s. 2 (*a*) (*i*).
[3] These words were inserted, *ibid.*, s. 2 (*a*) (*ii*).
[4] These words were added, *ibid.*, s. 2(*a*) (*iii*).
[5] These words were inserted by Bom. 12 of 1950, s. 2 (*1*).
[6] These words were inserted by Bom. 41 of 1953, s. 2 (*b*).
[7] These words were added, *ibid.*, s. 2 (*c*).

(*5*) Any other person whose interests will be affected by the division [1][or conversion] may by notice given to the society object to the division [1][or conversion] unless his claim is satisfied.

(*6*) After the expiry of three months from [2][the date of despatch or delivery of a copy of the preliminary resolution to] all the members and creditors of the society and [3][of the notice to other persons] given under sub-section (*2*), another special general meeting of the society, of which at least fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present [4][and voting] either without changes or with such changes as in the opinion of the Registrar are not material, he may, subject to the provisions of sub-section (*9*) [5][and sections 10 and 16, register the new societies or the converting society and the by-laws of the new societies or the by-laws, or the amendment of the by-laws, of the converting society, as the case may be]. On such registration, the registration of the old society shall be deemed to have been cancelled and the society shall be deemed to be dissolved from the date of such cancellation.

(*7*) The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(*8*) At the special general meeting referred to in sub-section (*6*) provision shall be made by another resolution for—

(*i*) repayment of the share capital of all the members who have given notice under sub-section (*3*);

(*ii*) satisfaction of the claims of all the creditors who have given notice under sub-section (*4*);

(*iii*) satisfaction of the claims of such of the other persons who have given notice under sub-section (*5*) as the Registrar decides or securing their claims in such manner as the Registrar directs:

Provided that no member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in sub-section (*6*).

(*9*) If within such time as the Registrar considers reasonable, the share capital of the members referred to in sub-section (*8*) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, or the claims of the other persons are not satisfied or secured as provided in clause (*iii*) of sub-section (*8*), the Registrar may refuse to register the new societies [6][or the converting society, as the case may be].

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[1] These words were inserted by Bom. 41 of 1953, s. 2 (*d*).

[2] These words were substituted for the words "the receipt of the preliminary resolution by" by Bom. 12 of 1950, s. 2 (*2*).

[3] These words were substituted for the words "of the notice by other persons" by Bom. 41 of 1953, s. 2 (*e*).

[4] These words were inserted, *ibid.*

[5] 2These words and figures were substituted for the words and figures "and section 10, register the new societies and the by-laws thereof", *ibid.*

[6] These words were added, *ibid.*, s. 2 (*f*).

IV of 1882. XVI of 1908. (*10*) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, the registration of the new societies [1][or the converted society] shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies [1][or the converted society, as the case may be], in the manner specified in the preliminary resolution as confirmed under sub-section (*6*).]

[2][**15B.** (*1*) Any two or more societies may, with the approval of the Registrar, by a resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into a contract of partnership for carrying out specific business or businesses, provided that each member has had clear ten days' written notice of the resolution and the date of the meeting. Partnership of societies.

IX of 1932. (*2*) Nothing in the Indian Partnership Act, 1932, shall apply to such contracts of partnership.]

16. (*1*) No amendment of the by-laws of a society shall be valid until approved by the resolution of a general meeting and registered under this Act for which purpose a copy of the amendment shall be forwarded to the Registrar. Amendment of the by-laws of a society.

(*2*) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may register the amendment.

(*3*) When the Registrar registers an amendment of the by-laws of a society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

[3][**16A.** (*1*) A society may, subject to the provisions of section 16, by an amendment of its by-laws, change its liability from limited to unlimited or unlimited to limited. Change of liability of society from limited to unlimited or from unlimited to limited.

(*2*) No such amendment shall be registered by the Registrar unless he is satisfied—

(*i*) that sufficient notice has been given to every member of the society and to any person or class of persons whose interest will, in the opinion of the Registrar, be affected by the alteration, and

(*ii*) that with respect to every such member or person who, in the opinion of the Registrar, is entitled to object,—

(*a*) either his assent has been obtained to the change,

(*b*) or if he signifies his objection—

(*i*) he is allowed to withdraw his share if he is a member, or

(*ii*) his debt or claim has been discharged or has determined or has been secured to the satisfaction of the Registrar within three months from the date of the notice :

Provided that the Registrar may, in the case of any person or class of person for special reasons, dispense with the notice required by this sub-section.]

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[1] These words were inserted by Bom. 41 of 1953, s. 2 (*g*).
[2] Section 15B was inserted, *ibid*, s. 3.
[3] Section 16A was inserted by Bom. 28 of 1948, s. 10.

[1][CHAPTER III.

RIGHTS AND LIABILITIES OF MEMBERS.]

No rights of membership to be exercised till due payments are made.

17. No person shall exercise the rights of a member of a society unless or until he has made such payment to the society in respect of membership, or acquired such interest in the society as may be prescribed by the rules or the by-laws of such society.

Inheritance or acquisition of rights of member by minor or person of unsound mind.

[2][**17A.** (*1*) Nothing in section 6A shall prevent a minor or a person of unsound mind from inheriting or otherwise acquiring the rights of a member, but his liability in consequence of such acquisition shall be limited to his interest in the shares of the society and the unpaid dividends as also the loan stock bonds, if any, and the interest earned on them, which is unpaid.

(*2*) The person under any such disability as is referred to in sub-section (*1*) shall, on his disability ceasing, furnish the society a declaration of his willingness to become a member. On receipt of such declaration the society, notwithstanding anything contained in section 27, may, and if it is a co-operative housing society, such society shall admit him as a member if he is not otherwise disqualified. The person so admitted shall become entitled to all the rights and privileges of a member and become subject to liabilities like any other member of the society.]

Votes of members.

18. (*1*) No member of any society shall have more than one vote in its affairs, provided that in the case of an equality of votes the chairman shall have a casting vote.

[3][(*1A*) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the share certificate shall have the right to vote.]

(*2*) A society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote in the affairs of such other registered society.

[4][(*3*) A company, which has invested any part of its funds in the shares of a society may appoint any one of its directors or officers to vote on its behalf in the affairs of such society.

(*4*) Where a firm has invested any part of its funds in the shares of a society, one of its partners shall be entitled to vote in the affairs of the society in the firm's name.]

Restrictions on transfer of share or interest.

19. (*1*) The transfer or charge of the share or interest of a member in the capital of a society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(*2*) A member shall not transfer any share held by him or his interest in the capital or property of any society or any part thereof unless

(*a*) he has held such share or interest for not less than one year ; [5]*

(*b*) the transfer or charge is made to the society or to a member of the society or to a person whose application for membership has been accepted by the society ; [6][and

(*c*) the committee has approved such transfer.]

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[1] The words and figures " Chapter III—*Rights and Liabilities of Members* " were substituted for the words " *Rights and liabilities of members* " by Bom. 8 of 1936, s. 2.

[2] Section 17A was inserted by Bom. 22 of 1952, s. 6.

[3] Sub-section (*1A*) was inserted by Bom. 28 of 1948, s. 11.

[4] Sub-sections (*3*) and (*4*) were inserted by Bom. 2 of 1952, s. 6.

[5] The word " and " was deleted by Bom. 28 of 1948, s. 12 (*1*).

[6] These words, brackets and letter were inserted, *ibid.*, s. 12 (*ii*).

[1][CHAPTER IV.

DUTIES OF SOCIETIES.]

Address of societies.

20. Every society shall have an address registered in accordance with the rules, to which all notices and communications may be sent and shall send notice in writing to the Registrar of any change in the said address within 30 days of such change.

Copy of Act, etc., to be open to inspection.

21. Every society shall keep open to inspection at all reasonable times at the registered address of the society—

(*a*) a copy of this Act,

(*b*) a copy of the rules governing such society,

(*c*) a copy of the by-laws of such society, and

(*d*) a register of its members.

Audit.

22. (*1*) The Registrar shall by himself or by some person authorised by him in writing by general or special order in this behalf audit the accounts of every society once at least in every year.

(*2*) The audit under sub-section (*1*) shall include an examination of overdue debts, if any, the verification of cash balance and securities, and a valuation of the assets and liabilities of the society.

(*3*) The Registrar or other person auditing the accounts of any society shall have free access to the books, accounts and vouchers of such society and shall be allowed to verify its cash balances and securities.

The Directors, Managers, and other officers of the society shall furnish to the Registrar or other person appointed to audit the accounts of a society all such information as to its transactions and working as the Registrar or such person may require.

(*4*) The Registrar and every other person appointed to audit the accounts of a society shall have power, when necessary—

(*i*) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give valuable information in regard to any transaction of the society or the management of its affairs, or

(*ii*) to require the production of any book or document relating to the affairs of any cash or securities belonging to the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

Registrar to bring defects disclosed in audit to notice of society.

[2][**22A.** If the result of the audit held under section 22 discloses any defects in the working of a society, the Registrar may bring such defects to the notice of the society and if the society is a member of a Federal Society also to the notice of the Federal Society. The Registrar may also make an order directing the society or its officers to take such action as may be specified in order to remedy the defects, within the time specified therein. Where the society concerned is a member of a Federal Society, such order shall be made after consulting the Federal Society.]

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[1] The words and figures "Chapter IV—*Duties of Societies*" were substituted for the words "*Duties of societies*" by Bom. 8 of 1936, s. 2.

[2] Section 22A was inserted by Bom. 22 of 1952, s. 7.

[1][CHAPTER V.

PRIVILEGES OF SOCIETIES.]

Societies to be bodies corporate.

23. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Prior claim of society.

[2][**24.** (*1*)] Subject to any prior claim of [3][the [4][Government]] in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent,

(*a*) any debt or outstanding demand owing to a society by any member or past member shall be a first charge (*i*) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member, and (*ii*) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture or workshops, godown or place of business, supplied to or purchased by such member or past member in whole or in part from any loan whether in money or goods given him by the society :

[5]* * * * * *

(*b*) any outstanding demands or dues payable to a housing society by any member or past member in respect of rent, shares, loans, or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of the society.

[6][(*2*) No property or interest in property which is subject to a charge under sub-section (*1*) shall be transferred in any manner except by way of lease for a term not exceeding ten years without the previous permission of the society.

(*3*) Notwithstanding anything contained in any law, any transfer made in contravention of the provisions of sub-section (*2*) shall be void.

(*4*) Any person who in contravention of the provisions of sub-section (*2*) transfers any property which is subject to a charge under sub-section (*1*) shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.]

Charge on immovable property of members borrowing loans from certain societies.

[7][**24AA.** Notwithstanding anything contained in this Act or in any other law for the time being in force—

[8](*i*) any person who makes an application to a society of which he is a member for a loan shall, if he owns any land, make a declaration in the form prescribed by rules. Such declaration shall state that the applicant thereby creates a charge on the land owned by him and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to him as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances ;]

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[1] The words and figures " Chapter V—*Privileges of Societies* " were substituted for the words " *Privileges of Societies* " by Bom. 8 of 1936, s. 2.

[2] Section 24 was numbered as sub-section ( ) by Bom. 28 of 1948, s. 13 (*1*).

[3] The words " the Crown " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[5] The proviso was deleted by Bom. 28 of 1948, s. 13 (*2*).

[6] Sub-sections (*2*), (*3*) and (*4*) were inserted, *ibid.*, s. 13 (*3*).

[7] Section 24AA was inserted, *ibid.*, s. 14.

[8] Clause (*i*) was substituted by Bom. 14 of 1949, s. 3 (*a*).

[1][(*ii*) any person who has borrowed a loan from a society of which he is a member before the date of the coming into force of the Bombay Co-operative Societies (Amendment) Act, 1948, and who owns any land shall, as soon as possible, make a declaration in the form and to the effect referred to in clause (*i*) and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;] Bom. XXV. III of 1948.

(*iii*) a declaration made under clause (*i*) or (*ii*) may be varied at any time by a member with the consent of the society in favour of which such charge is created;

(*iv*) no member shall alienate the whole or any part of the [2][land] specified in the declaration made under clause (*i*) or (*ii*) [3][until the whole amount borrowed by the member together with interest thereon is paid in full]:

Provided that standing crops on any such [2][land] may be alienated with the previous permission of the society;

[4][Provided further that it shall be lawful to a member to execute a mortgage bond in favour of the State Government in respect of such land or any part thereof under the Bombay Canal Rules made under the Bombay Irrigation Act, 1879, for the supply of water from a canal to such land or any part thereof];

(*v*) any alienation made in contravention of the provisions of clause (*iv*) shall be void;

(*vi*) subject to the prior claims of the [5][Government] in respect of land revenue or any money recoverable as land revenue and to the charge, if any, created under an award made under the Bombay Agricultural Debtors Relief Act, 1947, there shall be a first charge in favour of the society on the [2][land] specified in the declaration made under clause (*i*) or (*ii*) for and to the extent of the dues owing by him on account of the loan; Bom. XXV. III of 1947.

(*vii*) notwithstanding anything contained in Chapter X-A of the Bombay Land Revenue Code, 1879, the Record of Rights maintained under the said Chapter shall also include the particulars of every charge on [2][land] created under a declaration under clause (*i*) or (*ii*). Bom. V of 1879.

[6][*Explanation.*—For the purposes of this section, "society" shall mean—

(*a*) any resource society, the majority of the members of which are agriculturists and the primary object of which is to obtain credit for its members; or

(*b*) any society or any society of the class of societies specified in this behalf by the State Government by a general or special order.]

Deduction from salary to meet society's claim in certain cases.

[7][**24A.** (*1*) A member of a society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

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[1] Clause (*ii*) was substituted by Bom. 14 of 1949, s. 3 (*a*).
[2] This word was substituted for the words "immovable property" and "property", *ibid.*, s. 3.(*b*).
[3] These words were substituted for the words "until the loan is repaid in full", *ibid.*, s. 3 (*c*).
[4] This proviso was added by Bom. 73 of 1954, s. 2.
[5] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[6] This Explanation was substituted for the original by Bom. 22 of 1952, s. 8.
[7] This section was inserted by Bom. 20 of 1942, s. 2, read with Bom. 28 of 1948, s. 2.

(*2*) On the execution of such agreement the employer shall, if so required by the society by a requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society. [1][within fourteen days from the date on which such deduction is made.]

(*3*) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (*1*) as were in force on the date of the commencement of the Bombay Co-operative Societies (Amendment) Act, 1942.

(*4*) Nothing contained in this section shall apply to persons employed in [2][railways (within the meaning of the Constitution), mines and oil-fields].]

Charge and set-off in respect of shares or interest of member.

25. A society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member n or towards payment of any such debt.

Shares or interest not liable to attachment.

26. Subject to the provisions of section 25, the share or interest of a member in the capital of a society [3][or in a loan stock issued by a housing society] or [4][the share or interest of a member, or officer or servant of a society] in any provident fund established under section 41 of this Act shall not be liable to attachment or sale under any decree or order of a court of justice in respect of any debt or liability incurred by such member, [5][officer or servant]' and neither the Official Assignee under the [6]Presidency-towns Insolvency Act, 1909, nor a Receiver under the [6]Provincial Insolvency Act, 1920, shall be entitled to or have any claim on such share or interest.

III of 1909.
V of 1920.

Transfer of interest on death of member.

27. (*1*) [7][Subject to the provisions of section 17A,] on the death of a member of a society such society may within a period of one year from the date of such member transfer the share or interest of the deceased member to a person or persons nominated in accordance with the by-laws of the society, if duly admitted a member of the society, in accordance with the rules or the by-laws of the society, or if there is no person so nominated, to such person as may appear to the Committee to be the heir or legal representative of the deceased member if duly elected a member of the society, or may pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such, member's share or interest as ascertained in accordance with the rules or by-laws :

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[1] These words were added by Bom. 73 of 1954, s. 3.
[2] These words and brackets were substituted for the words, brackets and figures " Federal railways (within the meaning of the Government of India, Act, 1935) " by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 12 of 1950. s. 3.
[4] These words were inserted by Bom. 28 of 1948, s. 15 (*i*).
[5] These words were inserted, *ibid*,. s. 15 (*ii*).
[6] *See* Central Acts.
[7] These words, figures and letter were inserted by Bom. 22 of 1952, s. 9.

Provided that such nominee, heir or legal representative, as the case may be, may require that payment shall be made by the society within one year from the death of the member of the value of the share or interest of such member ascertained as aforesaid.

(*2*) A society shall subject to the provisions of section 25 and unless prevented by an order of a competent court pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(*3*) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of

28. The liability of a past member for the debts of a society as they existed at the time when he ceased to be a member, shall continue for a period of two years from the date of his ceasing to be a member.

Liability of the estates of deceased members.

29. The estate of a deceased member shall be liable for a period of [1][two years] from the date of his decease for the debts of a society as they existed at the time of his death.

Register of members.

30. Any register or list of members or shares kept by any society shall be *prima facie* evidence of any of the following particulars entered therein :—

(*a*) the date at which the name of any person was entered in such register or list as a member;

(*b*) the date at which any such person ceased to be a member.

Admissibility of copy of entry as evidence.

31. (*1*) A copy of any entry in any book, register or list regularly kept in the course of business in the possession of a society shall, if duly certified in such manner as may be prescribed by the rules, be admissible in evidence of the existence of the entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters.

(*2*) In the case of such societies as [2][the [3][State] Government] by general or special order may direct no officer of a society shall in any legal proceedings to which the society is not a party be compelled to produce any of the society's books, the contents of which can be proved under sub-section (*1*), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

XVI of 1908.

Exemption from compulsory registration of instruments relating to shares and debentures of society.

32. Nothing in section 17, sub-section (*1*), clauses (*b*) and (*c*), of the [4]Indian Registration Act, 1908, shall apply to—

(*1*) any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immoveable property ; or

(*2*) any debenture issued by any society and not creating, declaring, assigning, limiting or extinguishing any rights, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

(*3*) any endorsement upon or transfer of any debenture issued by any society.

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[1] The words " two years " were substituted for the words " one year " by Bom. 28 of 1948, s. 16.
[2] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] *See* Central Acts.

Power to exempt from income tax, stamp duty, registration and court fees.

33. (*1*) The [1][Central Government], by notification in the [2][*Official Gazette*], may, in the case of any society or class of societies, remit the income-tax or super-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits or in respect of interest on securities held by the society.

(*2*) The [3][Government] by notification in the [4][*Official Gazette*] may, in the case of any society or class of societies, remit—

(*a*) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a society or by an officer or member and relating to the business of the society, or any class of such instruments or awards of the Registrar or arbitrators under this Act are respectively chargeable; and

(*b*) any fee payable under the law of registration and of court fees for the time being in force.

[5][In this sub-section "Government" in relation to stamp-duty, means the Government [6][as defined in sub-section (*2*) of section 9 of] the Indian Stamp Act, 1899, in relation to court fees means the Government which is the appropriate Government for the purposes of the Court Fees Act, 1870, and save as aforesaid means the [7][State] Government.] II of 1899. VII of 1870.

State Government may give loans, contribute to share capital or guarantee debentures, share capital or dividend.

[8][**33A.** Subject to such conditions as the State Government may by general or special order specify in this behalf and to such other conditions as may be provided for by any law for the time being in force, the State Government may—

(*a*) give loans to societies,

(*b*) contribute towards the share capital of a society, [9]*

(*c*) guarantee the payment of principal debentures issued by a society or of interest thereon or both or the repayment of the share capital of a society to its members or the payment of dividend thereon at such rates as may be specified by the State Government, [10][or]

(*d*) guarantee the repayment of loans given by a co-operative bank to a society.]

[11][CHAPTER VI.

PROPERTY AND FUNDS OF SOCIETIES.]

Restrictions on loans.

34. (*1*) Except with the general or special sanction of the Registrar a society shall not make a loan to any person other than a member.

[12](*2*) * * * * * *

(*3*) [13][The [7][State] Government] may, by general or special order, prohibit or restrict the lending of money [14][on the security of moveable property or] on mortgage of immovable property by any society or class of societies.

Restrictions in borrowing.

35. A society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by the by-laws of the society.

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[1] The words "Central Government" were substituted for the words "Governor General in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Gazette of India*", *ibid.*

[3] The word "Government" was substituted for the words "Local Government", *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] These words were inserted, *ibid.*

[6] This portion was substituted for the words "which is the collecting Government for the purposes of" by the Adaptation of Laws Order, 1950.

[7] This word was substituted for the word "Provincial", *ibid.*

[8] This section was substituted for the original by Bom. 2 of 1952, s. 7.

[9] The word "or" was deleted by Bom. 18 of 1953, s. 3 and Second Schedule.

[10] This word was added, *ibid.*

[11] The words and figures "Chapter VI—*Property and Funds of Societies*" were substituted for the words "*Property and Funds of Societies*" by Bom. 8 of 1936, s. 2.

[12] Sub-section (*2*) was deleted by Bom. 28 of 1948, s. 17 (*i*).

[13] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[14] These words were inserted by Bom. 28 of 1948, s. 17 (*ii*).

Restrictions on other transactions with non-members.

36. Consumers', Producers' and Housing Societies may to the extent permitted by their by-laws trade with persons who are not members, but the transactions of a Resource society with persons other than members except as provided under section 34 or 35 shall be subject to such prohibitions and restrictions, if any, as [1][the [2][State] Government] may by rules prescribe.

Investment of funds.

37. A society may invest or deposit its funds—

(*a*) in the Government Savings Bank ; or

(*b*) in any of the securities specified in section 20 of the [3]Indian Trusts Act, 1882 ; or

(*c*) in the shares or on the security of any other society, provided that no such investment shall be made in the shares of any society other than one with limited liability ; or

(*d*) with any bank or person carrying on the business of banking approved for this purpose by the Registrar ; or

(*e*) in any other mode permitted by the rules [4][or by general or special order of the [2][State] Government].

Restrictions on dividend.

38. No society shall pay a dividend to its members at a rate exceeding [5][6¼] per cent.

Reserve Fund.

39. (*1*) Every society which does or can derive a profit from its transactions shall maintain a reserve fund.

(*2*) In the case of a Resource or Producers' society at least ¼th of the net profits of the society each year shall be carried to the reserve fund and in the case of any other society at least 1/10th of the net profits of the society each year shall be carried to the reserve fund, and such reserve fund may be used in the business of the society or may be invested, subject to the provisions of section 37, as [1][the [2][State] Government] may by general or special order direct, or may, with the previous sanction of [1][the [2][State] Government] be used in part for some public purpose likely to promote the objects of this Act or for some purposes of provincial or local interest.

Contribution to educational fund of Bombay Provincial Co-operative Institute.

[6][**39A.** Every society which pays a dividend to its members at a rate of 4 per cent. or more shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute at such rate as may be prescribed.]

Restrictions on distribution of profits.

40. Subject to the provisions of section 38 the balance of the profits of a society after making the prescribed provision for the reserve fund [and contribution, if, any, to the educational fund of the Bombay Provincial Co-operative Institute] may, together with any available profits of past years be distributed among its members [8][and be paid to the State Government on the share capital of the society contributed by it, if any, under section 33A] and in the case of Consumers' and Producers' societies, also among persons who are not members, to the extent and under the

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] *See* Central Acts.

[4] These words were added by Bom. 28 of 1948, s. 18.

[5] The figures "6¼" were substituted for the figures "10" *ibid.*, s. 19.

[6] Section 39 A was inserted, *ibid.*, s. 20.

[7] These words were inserted, *ibid.*, s. 21.

[8] These words were inserted by Bom. 73 of 1954, s. 4. This amendement shall be deemed to have been made on and to have effect from the 14th February 1952. (*See* s. 12 of Bom. 73 of 1954).

conditions prescribed by the rules or by the by-laws of such societies, provided that :—

(*a*) in the case of a Resource society on a basis of unlimited liability in which the members do not hold shares, no distribution of profits shall be made without the general or special order of [1][the [2][State] Government] in this behalf ; and

(*b*) in the case of a Resource society on a basis of unlimited liability in which the members hold shares, no such distribution of profits shall be made until 10 years from the date of registration of the society have elapsed.

Provident Fund.

41. Any society may establish a provident fund for its members [3][or officers or servants] out of contributions from such members [4][or officers or servants, as the case may be,] in accordance with by-laws made by the society in this behalf and may contribute to such provident fund from its net profits, after the prescribed payments have been made to the reserve fund, provided that such provident fund shall not be used in the business of the society but shall be invested under the provisions of section 37 ; and provided further, that no part of such provident fund shall be considered as an asset of the society.

Contribution to charitable purpose.

42. With the approval of the Bombay Central Co-operative Institute and after the payments prescribed by sub-section (*2*) of section 39 [5][and section 39A have been made] any society may—

(*a*) set aside a sum not exceeding 20 per cent. of its net profits, and

(*b*) utilize from time to time the whole of such sum in contributing to any public or co-operative purpose, or to a charitable purpose as defined in section 2 of the [6]Charitable Endowments Act, 1890. VI of 1890.

[7][CHAPTER VII.

INSPECTION OF AFFAIRS.]

Inquiry by Registrar.

43. (*1*) The Registrar may of his own motion by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(*2*) The Registrar shall hold such an inquiry as is contemplated in sub-section (*1*) of this section—

(*a*) on the requisition of a society, duly authorised by rules made in this behalf to make such requisition, in respect of one of its members, such member being itself a society,

(*b*) on the application of a majority of the Committee of the society.

(*c*) on the application of ⅓rd of the members of the society.

(*3*) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

(*4*) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

Inspection of books of indebted society.

44. (*1*) The Registrar may on the application of a creditor of a society inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society :

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These words were inserted by Bom. 28 of 1948 s. 22 (*i*).

[4] These words were inserted, *ibid*, s. 22 (*ii*).

[5] These words, figures and letter were substituted for the words " have been made to the reserve fund ", *ibid*., s. 23.

[6] *See* Central Acts.

[7] These words and figures " Chapter VII—*Inspection of Affairs*" were substituted for the words " *Inspection of affairs* " by Bom. 8 of 1936, s. 2.

Provided that—

(*a*) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(*b*) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(*2*) The Registrar shall communicate the result of any such inspection to the creditor.

Costs of inquiry.

45. Where an inquiry is held under section 43 or an inspection is made under section 44 the Registrar may apportion the costs, or such part of the costs, as he may think right, between the society, the members or creditor demanding the inquiry or inspection, the officers or former officers, and the members or past members of the society:

Provided that—

(*a*) no order of apportionment of the costs shall be made under this section unless the society or persons liable to pay the costs thereunder has or have been heard or has or have had a reasonable opportunity of being heard;

(*b*) the Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

Recovery of costs.

46. Any sum awarded by way of costs under section 45 may be recovered, on application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides, or carries on business, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Registrar to bring defects disclosed in inquiry or inspection to notice of society.

[1][**46A.** (*1*) If the result of any inquiry held under section 43 or an inspection made under section 44 discloses any defects in the working of a society the Registrar may bring such defects to the notice of the society and if the society is a member of a Federal society to the notice of the Federal society. The Registrar may also make an order directing the society or its officers or the Federal society to take such action as may be specified in the order to remedy the defects within the time specified therein.

(*2*) The Federal society or the society concerned may appeal against an order made by the Registrar under sub-section (*1*) to the Provincial Government within the time specified in the order.

(*3*) The Provincial Government may in deciding the appeal annul, reverse, modify or confirm the order of the Registrar.]

[2][CHAPTER VIII.

LIQUIDATION AND ARBITRATION.]

Winding up.

47. If the Registrar, after an inquiry has been held under section 43 or after an inspection has been made under section 44 or on receipt of an application made by three-fourths of the members of a society present at a special general meeting, called for the purpose or of his own motion, in the case of a society that has not commenced working, or has ceased working, or possesses shares or members' deposits not exceeding Rs. 500, is of opinion that the society ought to be wound up he may issue an order directing it to be wound up, and when necessary, may appoint a liquidator for the purpose and fix his remuneration.

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[1] Section 46A was inserted by Bom. 28 of 1948, s. 24.

[2] The words and figures "Chapter VIII—*Liquidation and Arbitration*" were substituted for the words "*Liquidation and Arbitration*" by Bom. 8 of 1936, s. 2.

Society may be wound up if membership is reduced.

48. Where it is a condition of the registration of a society that it shall consist of at least ten members who are majors, the Registrar may by order in writing direct the society to be wound up, if at any time it is proved to his satisfaction that the membership has been reduced to less than ten such members.

Effect of liquidation of society on past member or on estate of deceased member.

[1][**48A.** Notwithstanding anything contained in sections 28 and 29, when a society is directed to be wound up under section 47 or 48, the liability of a past member and the liability of the estate of a deceased member of the society, as it existed on the date on which the society was directed to be wound up, shall continue until all the liabilities of the society are met.]

Effect of cancellation of registration.

[2]**49.** When the affairs of a society for which a liquidator has been appointed under section 47 have been wound up, or, where no liquidator has been appointed after two months from the date of an order under section 47, or after confirmation of such order in appeal, the Registrar shall make an order cancelling the registration of the society, and the society shall be deemed to be dissolved from the date of such order.

[3]* * * * * *

Powers of a liquidator.

50. A liquidator appointed under section 47 shall have power with the sanction of the Registrar to do all or any of the following things :—

(*a*) pay any class or classes of creditors in full ;

(*b*) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the society may be rendered liable ;

(*c*) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt, or claim and give a complete discharge in respect thereof ;

(*d*) from time to time to determine the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers to the assets of the society, such contribution including debts due from such members or persons ;

(*e*) to institute and defend suits and other legal proceedings on behalf of the society in the name of his office ;

(*f*) to issue requisitions under section 59 upon the Collector for the recovery as arrears of land revenue of any sum ordered by him to be recovered as dues from members, or as a contribution to the assets of the society or to the cost of liquidation ;

(*g*) to get disputes referred to arbitration ;

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[1] This section was inserted by Bom. 14 of 1949, s. 4.
[2] Section 49 (*1*) was renumbered as 49, *ibid.*, s. 5.
[3] Sub-section (*2*) of section 49 was deleted, *ibid.*

(*h*) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising out of such claims, and to pay rateably according to the amount of such debts, the surplus if any being applied in payment of interest from the date of liquidation at a rate to be fixed by the Registrar and not exceeding the contract rate ;

(*i*) to determine by what persons and in what proportion the cost of the liquidation shall be borne ;

(*j*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ;

(*k*) to fix the time or times within which creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved ;

(*l*) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same :

Provided that no liquidator shall determine the contribution, debt or dues to be recovered from [1][a member or] a past member or the representative of a deceased member unless opportunity has been given to such [2][member or] past member or to such representative to answer the claim.

Power of Registrar to assess damage against delinquent promoters, etc.

50A. (*1*) Where, in the course of [3][or as a result of,] [4][an audit under section 22 or an inquiry under section 43 or an inspection under section 44 or], the winding up of a society it appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of the managing committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may, on the application of [5][the officer conducting the audit or holding the inquiry or inspection, of or] the liquidator or of any creditor or contributory, examine into the conduct of such person and [6][after giving reasonable opportunity to the person concerned to submit his explanation], make an order requiring him to repay or restore the money or property or any part, thereof respectively with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer, misfeasance or breach of trust as the Registrar thinks just.

[7][(*1A*) The Registrar, instead of himself examining into the conduct of any such person under sub-section (*1*), may by an order in writing authorize any person to examine into the conduct of such person under sub-section (*1*). The person so authorized shall, after giving such person reasonable opportunity to submit his explanation, report to the Registrar the result of the examination with his recommendations as to what action, if any, the Registrar should take. The Registrar, after considering the report, may make any order which he considers just in the circumstances, and which he could have made under sub-section (*1*) if he had made the examination himself.

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[1] These words were inserted by Bom. 28 of 1948, s. 26 (*a*).
[2] These words were inserted, *ibid.*, s. 26 (*b*).
[3] These words were inserted by Bom. 12 of 1955, 2 (*a*).
[4] These words and figures were inserted by Bom. 28 of 1948, s. 27 (*i*).
[5] These words were inserted, *ibid.*, s 27 (*ii*).
[6] These words were inserted, *ibid.*, s. 27 (*iii*).
[7] These sub-sections were inserted by Bom. 12 of 1955, s. 2 (*b*).

(*1B*) For the purpose of sub-section (*1A*) the person authorized shall, subject to the general or special order of the State Government, be a person who is or has held office not lower in rank than that of a Deputy Registrar, Co-operative Societies, a Deputy Collector or a Civil Judge (Senior Division).

(*1C*) The Registrar, in making any order, under this section, may provide therein for the payment of the costs, or any part thereof, of such examination by such person or persons as he thinks just ; and he may direct that such costs, or any part thereof, shall be paid in the first instance from the funds of the society, or from the interest on surplus assets of the society dissolved under section 49, as the case may be and then recovered and repaid to the society or credited to the said surplus assets.]

(*2*) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

Bar of suit in winding up and dissolution matters.

51. Save in so far as is expressly provided in this Act no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act and when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

Disposal of surplus assets.

52. After all the liabilities including the paid-up share capital of a cancelled society have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the by-laws of the society and when no object is so described to any object of public utility determined by the general meeting of the society and approved by the Registrar or they may in consultation with them either be assigned by the Registrar in whole or in part to any or all of the following :

(*a*) an object of public utility of local or communal interest,

(*b*) a charitable purpose as defined in section 2 of the [1]Charitable Endowments Act, 1890, VI of 1890

(*c*) the Bombay Central Co-operative Institute, or may be placed on deposit with a Central Co-operative Bank [2][until such time as a new society with similar objects is registered and is classified by the Registrar as falling under the head or sub-head specified in clause (*h*) of section 3 under which the cancelled society was classified] when with the consent of the Registrar such surplus may be credited to the reserve fund of such new society.

Surplus assets of housing society.

53. Where the society directed to be wound up is a housing society, its assets, both moveable and immovable, shall for the purposes of winding up or dissolution of the society jointly vest, subject to all rights and equities, in three persons of whom one shall be nominated by the Registrar, one shall be nominated by the said Society in a general meeting specifically called for the purpose and one shall be

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[1] *See* Central Acts.

[2] These words, brackets, letter and figure were substituted for the words " until such time as a new Society with similar conditions is registered " by Bom. 73 of 1954, s. 5.

nominated by the Bombay Central Co-operative Institute. Such persons shall for the purpose of winding up or dissolution of the society be Joint Liquidators and shall have all the powers of a liquidator under this Act. They may, with the sanction of the Registrar, continue the working of the society, or may, subject to his sanction and in consultation with the members of the society in a general meeting, reconstruct the society or may sell off the premises of the society to the best advantage of all interests concerned, and when all the liabilities of the society are met may, dispose of the surplus assets of the society if any, as provided in section 52.

Arbitration.

54. [1][(*1*) [2][(*a*)] If any dispute touching the [3][constitution or] business of society arises between members or past members of the society or persons claiming through a member or past member or between members or past members or persons so claiming and any officer, agent or servant of the society [4][past or present] or between the society or its committee, and any officer, agent, member or servant of the society [4][past or present], it shall be referred to the Registrar for decision by himself or his nominee or if either of the parties so desires, to arbitration of three arbitrators who shall be the Registrar or his nominee and two persons of whom one shall be nominated by each of the parties concerned.

A dispute shall include claims by a society for debts or demands due to it from a member or past member or the heirs or assets of a past member [5][as well as claims by a member or past member or the heirs of a past member for any debts or demands due to him from the society,] whether such debts or demands be admitted or not :

Provided that if the question at issue between a society and a claimant, or between different claimants, is one involving complicated questions of law and fact, the Registrar may, if he thinks fit, suspend proceedings in the matter until the question has been tried by a regular suit instituted by one of the parties or by the society. If no such suit is instituted within six months of the Registrar's order suspending proceedings the Registrar shall take action as laid down in paragraph 1 of this section.

[6][(*b*) Notwithstanding anything contained in clause (*a*), any dispute regarding the election of any office bearer of a society may, within one month from the date of declaration or the result of such election, be referred by any candidate at such election or any member of the society, to the Registrar for decision by himself or his nominee.]

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[1] Section 54 was renumbered as sub-section (*1*) of that section by Bom. 22 of 1952, s. 9.
[2] Sub-section (*1*) was renumbered as clause (*a*) of that sub-section by Bom. 73 of 1954, s. 6 (*1*).
[3] These words were inserted by Bom. 28 of 1948, s. 28.
[4] The words " past or present " were inserted by Bom. 16 of 1943, s. 2, read with s. 2 of Bom. 28 of 1948.
[5] These words were inserted by Bom. 41 of 1953, s. 4.
[6] This clause was added by Bom. 73 of 1954, s. 6 (*2*).

[1][(2) Where any dispute is referred under sub-section (1) for decision by the Registrar's nominee or to arbitration of arbitrators, the Registrar may, at any time, for reasons to be recorded in writing withdraw such dispute from his nominee or the arbitrators, as the case may be, and may decide the dispute himself or refer it again to any other nominee appointed by him for decision :

Provided that no such dispute shall be withdrawn except on any of the following grounds : —

(*i*) the Registrar's nominee or the arbitrators have failed to decide the dispute within two months or such further period as may be allowed by the Registrar ;

(*ii*) the proceedings before the Registrar's nominee or any of the arbitrators are vitiated in consequence of corruption or misconduct on the part of the Registrar's nominee or any of the arbitrators, as the case may be.]

[2][**54A.** (*1*) In the case of any award made by the arbitrators under section 54, the Tribunal may, on the application of any of the parties to the award or otherwise for reasons to be recorded in writing— Tribunal's power to modify, correct or remit award.

(*i*) modify the award, or

(*ii*) set it aside and order that the dispute shall be referred back to the arbitrators in the manner provided under the said section, [3][or

(*iii*) pass such order thereon as it deems just.]

Provided that no such order shall be made—

(*a*) after the issue of a certificate under section 59 for the execution of the award, and

(*b*) except on any of the following grounds :—

(*i*) an objection to the legality of the award is apparent on the face of it, or

(*ii*) the award has been vitiated in consequence of corruption or misconduct on the part of any of the arbitrators, or

(*iii*) the award is in any way perverse.

(*2*) In making an order under sub-section (*1*) that the dispute shall be referred back to arbitration, the Tribunal may direct that all or any of the arbitrators who made the award shall not act again as arbitrators for deciding the dispute.

(*3*) Where a dispute is referred back to arbitration under sub-section (*1*), the arbitrators shall make a fresh award within such time as may be fixed by the Tribunal. If the arbitrators fail to make a fresh award within the time so fixed, the Registrar or his nominee shall decide the dispute.

(*4*) When the award is made by the arbitrators under sub-section (*3*), the Tribunal may, on the application of any of the parties to the award or otherwise for reasons to be recorded in writing—

(*i*) modify the award, or

(*ii*) pass such order thereon as it deems just.

To such modification or order the proviso to sub-section (*1*) shall apply.]

[4][(*5*) The applications under sub-sections (*1*) and (*4*) shall be made within two months from the date of the award made by the arbitrators.]

[5][Provided that the Tribunal may admit any such application after the expiry of the said period of two months, if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within the said period.]

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[1] This sub-section was inserted by Bom. 22 of 1952, s. 10.
[2] Section 54A was substituted for the original by Bom. 28 of 1948, s. 29.
[3] The word " or " and clause (*iii*) were inserted by Bom. 12 of 1950, s. 4 (*1*).
[4] Sub-section (*5*) was inserted, *ibid*, s. 4 (*2*).
[5] This proviso was added by Bom. 41 of 1953, s. 5.

Attachment before award [5][or before order made under section 50A.

[1][**55.** [2][(*1*) Where a dispute has been referred to the Registrar under section 54 or to arbitration under clause (*g*) of section 50, or where the Registrar or the person authorized under sub-section (*1A*) of section 50A examines into the conduct of any person under the said section, the Registrar or his nominee, or the arbitrators, or the person authorized, as the case may be, if satisfied on enquiry or otherwise that a party to such arbitration or examination with intent to delay or obstruct the execution of any award or the carrying out of any order that may be made—

(*a*) is about to dispose of the whole or any part of his property, or

(*b*) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

may, unless adequate security is furnished, direct the conditional attachment of the said property; and such attachment shall have the same effect as if made by a competent Civil Court.]

[3][(*2*) The Registrar or his nominee or the arbitrators [4][or the person authorized], as the case may be, may in order to prevent the end of justice being defeated make such interlocutory orders pending the decision in a dispute referred to in sub-section (*1*) as may appear to be just and convenient.]

Appeal against decision of Registrar and his nominee.

[6][**56.** Any party aggrieved by any decision of the Registrar or his nominee under section 54 or sub-section (*3*) of section 54A or an order passed under section 55 by the Registrar or his nominee or arbitrator [7][or the person authorised] may, within [8][two months] from the date of the decision or order, appeal to the Tribunal]:

[9][Provided that—

(*a*) any appeals filed on or after the 1st day of April 1948 before the Registrar against the decision or order of his nominee made or passed under section 54, 54A or 55 shall be and are hereby transferred for decision to the Tribunal and shall be disposed of by the Tribunal, as if they were instituted before it under this section;

(*b*) all appeals which would have been filed before the Tribunal against the decision or order of the Registrar or his nominee made or passed under the aforesaid sections, but which could not be filed only on the ground that the Tribunal was not constituted, may be filed before the Tribunal within a period of one month from the commencement of the Bombay Co-operative Societies (Amendment) Act, 1949, or before the 15th day of June 1949, whichever date is later, notwithstanding the fact that the period of one month provided by this section may have expired.] Bom. XIV of 1949.

Finality of order.

57. [10]* * * * The award of the arbitrators or a decision by the Registrar or his nominee under section 54 [11][or 54A] shall not be liable to be called in question in any civil or revenue court.

Powers to enforce attendance.

58. Wherever in this Act it is provided that the Registrar or person duly authorized by general or special order in writing by the Registrar in this behalf shall hold an inquiry under section 43 or shall make an inspection under section 44 or

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[1] Section 55 was renumbered as section 55 (*1*) by Bom. 12 of 1950, s. 5.
[2] This sub-section was substituted for the original by Bom. 12 of 1955, s. 3 (*a*).
[3] This sub-section was inserted by Bom. 12 of 1950, s. 5.
[4] These words were inserted by Bom. 12 of 1955, s. 3 (*b*).
[5] These words, figures and letter were added by Bom. 12 of 1955, s. 3 (*c*).
[6] Section 56 was substituted for the original by Bom. 28 of 1948, s. 30.
[7] These words were inserted by Bom. 12 of 1955, s. 4.
[8] These words were substituted for one month by Bom. 12 of 1950, s. 6.
[9] This proviso was added by Bom. 14 of 1940, s. 6.
[10] The sentence "An order passed in appeal under section 53 shall be final and conclusive" was deleted by Bom. 28 of 1948, s. 31.
[11] The word, figures and letter "or 54A" were inserted by Bom. 17 of 1936, s. 4.

shall wind up a society or shall arbitrate, such Registrar, or person authorized, as the case may be, shall have the power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and to compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908.

V of 1908

59. (*1*) Every order passed by a liquidator under section 50, [1][or by the Registrar under [2]* * * * * section 50A] or by the Registrar or his nominee or arbitrators on disputes referred to him or them under clause (*g*) of section 50 or under section 54 [3][or under sub-section (*3*) of section 54A], every order passed in appeal under section 56, [4][every order passed in revision under sub-section (*6*) of section 63A] and every order passed by [5][the [6][State] Government] in appeal against orders passed under [7][section 50] shall, if not carried out— Money how recovered.

[8][(*a*) on a certificate signed by the Registrar or a liquidator, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such Court; or

(*b*) be executed] according to the law and under the rules for the time being in force for the recovery of arrears of land revenue, provided that any application for the recovery in such manner of any such sum shall be made to the Collector and shall be accompanied by a certificate signed by the Registrar or by an Assistant Registrar to whom the said power has been delegated by the Registrar. [9][Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.]

[10](*2*) * * * * *

[11][**59AA.** Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be, under section 59 shall be null and void as against the society on whose application the said certificate was issued.] Private transfer of property made after issue of certificate void against society.

[12][**59A.** (*1*) When in execution of an order sought to be executed under section 59, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or Assistant Registrar under clause (*a*) or (*b*) of sub-section (*1*), the Court or the Collector, as the case may be, may, with the previous consent of the Registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and that the said property or the portion shall be delivered to the society in the prescribed manner. Transfer of property which cannot be sold.

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[1] These words, figures, letter and brackets were inserted by Bom. 28 of 1948, s. 32 (*i*).

[2] The words brackets and figure "sub-section (*1*) of" were deleted by Bom. 12 of 1955, s. 5.

[3] The words, figures and letter "or under sub-section (*3*) of section 54A" were inserted by Bom. 17 of 1936, s. 5 (*i*).

[4] These words, figures, letter and brackets were inserted by Bom. 28 of 1948, s. 32 (*ii*)

[5] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[7] These words and figures were substituted for the words, figures, letter and brackets "section 50, 54 or sub-section (*3*) of section 54A" by Bom. 28 of 1948, s. 32 (*iii*).

[8] This portion was substituted for the portion beginning with the word "be executed" and ending with the brackets and letter "(*b*)" by Bom. 16 of 1943, s. 3, read with s. 2 of Bom. 28 of 1948.

[9] This portion was added by Bom. 12 of 1950, s. 7.

[10] Sub-section (*2*) was repealed by Bom. 22 of 1935, s. 3.

[11] Section 59AA was inserted by Bom. 28 of 1948, s. 33.

[12] Section 59A was inserted by Bom. 22 of 1935, s. 4.

(*2*) Subject to such rules as may be made in this behalf and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any other person such property or portion, thereof shall be held by the said society on such terms and conditions as may be agreed upon between the Court or the Collector, as the case may be, and the said society.

[1]* * * * *

[2][(*3*) Subject to the general or special orders of the State Government, the Collector may delegate to an officer, not below the rank of an Assistant or Deputy Collector, powers exercisable by him under this section.]

Recovery of moneys due to land mortgage bank.

[3][**59B.** (*1*) Notwithstanding anything contained in sections 54 and 59, on an application made by a land mortgage bank for the recovery of arrears of any sum advanced by it to any of its members [4][or by a resource society for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops or seasonal finance] and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(*2*) A certificate granted by the Registrar under sub-section (*1*) shall be final and conclusive. The arrears stated to be due therein shall be recoverable according to the law for the time being in force for the recovery of land revenue.

(*3*) It shall be lawful for the Collector to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code, 1879, until the arrears due to the land mortgage bank [5][or the resource society] together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar. Bom. V of 1879.

Explanation.—For the purposes of this section—

[6](*1*) a land mortgage bank means the Bombay Provincial Co-operative Land Mortgage Bank or any other co-operative land mortgage bank which is registered under this Act and is a member of that bank.

[7](*2*) "financing of crops" and "seasonal finance" shall have the meanings given to them by the Bombay Agricultural Debtors Relief Act, 1947]. Bom. XXVIII of 1947.

[8][CHAPTER IX.

OFFENCES.]

Offences.

60. It shall be an offence under this Act if—

Default by a society, officer or member.

(*a*) a society with a working capital of Rs. 50,000 or more or an officer or member thereof fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything which the society, officer or member is by this Act required to give, send, do or allow to be done; or

Wilful neglect or default by a society, etc.

(*b*) a society or an officer or a member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorised by him in writing in this behalf; or

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[1] The proviso was deleted by Bom. 28 of 1948, s. 34.
[2] This sub-section was added by Bom. 22 of 1952, s. 11.
[3] Section 59B was inserted by Bom. 16 of 1943, s. 4, read with s. 2 of Bom. 28 of 1948.
[4] These words were inserted by Bom. 28 of 1948, s. 35 (*i*).
[5] These words were inserted, *ibid.*, s. 35 (*ii*).
[6] The figure and brackets "(*1*)" were inserted, *ibid.*, s. 35 (*iii*) (*a*).
[7] These brackets, figures and words were inserted, *ibid.*, s. 35 (*iii*) (*b*).
[8] The words and figures "Chapter IX—Offences" were substituted for the word "Offences" by Bom. 8 of 1936, s. 2.

(*c*) a society or an officer or member thereof wilfully makes a false return or furnishes false information ; or

Wilful furnishing of false information.

(*d*) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written orders issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorised to do so under the provisions of this Act.

Disobedience of summons, requisition or order.

[1][**60-A.** Any officer of a society who wilfully recommends or sanctions, for his own personal use or benefit, loan in the name of any other person shall, on conviction, be punishable with fine which may extend to five hundred rupees.]

Penalty for offences sanctioning benami loans.

[2][**60-B.** Any employer, who, without sufficient cause, fails to pay to the society the amount deducted by him under sub-section (*2*) of section 24A within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any law for the time being in force, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to five thousand rupees or with both :

Penalty for failure to pay amount under section 24A and offences by corporations.

] ovided that if such employer is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due deligence to prevent such contravention, be deemed to be guilty of such contravention.]

61. Every society, officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding Rs. 50.

Penalty for offences not otherwise provided for.

[1] Section 60A was inserted by Bom. 28 of 1948, s. 36.
Section 60B was inserted by Bom. 73 of 1954, s. 7.

Prohibition of the use of the word "co-operative"

62. (*1*) No person other than a registered society shall without the sanction of [1][the [2][State] Government] trade or carry on business under any name or title of which the word "co-operative" or its vernacular equivalent forms part :

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(*2*) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

Cognizance of offences.

63. (*1*) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act

V o 1898.

[3][(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898,—

(*a*) every offence under this Act shall, for the purposes of the said Code, be deemed to be non-cognizable ;

(*b*) it shall be lawful for a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of an offence under section 60B.

(*3*) No prosecution under this Act shall be lodged except with the previous sanction of the State Government in the case of an offence under section 60B and of the Registrar in the case of any other offence under this Act. Such sanction shall not be given except after hearing the party concerned by an officer authorised in this behalf by the State Government by a general or special order.]

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[4][CHAPTER X.

APPEALS AND REVISION.]

Bombay Co-operative Tribunal.

[5][**63A.** (*1*) The [2][State] Government shall constitute a Tribunal, called the Bombay Co-operative Tribunal, to exercise the functions conferred on the Tribunal by or under this Act.

(*2*) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

[6][(*2-A*) Where the Tribunal consists of three members, any two members of the Tribunal shall form the quorum for the disposal of its business.]

(*3*) Any vacancy in the membership of the Tribunal shall be filled by the [2][State] Government.

(*4*) Subject to the previous sanction of the [2][State] Government, the Tribunal shall frame regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These sub-sections were substituted for the original by Bom. 73 of 1954, s. 8.
[4] The words and figures "Chapter X—Appeals and Revision" were substituted for the words "Appeals and Revision" by Bom. 8 of 1936, s. 2.
[5] Section 63A was inserted by Bom. 28 of 1948, s. 37.
[6] This sub-section was inserted by Bom. 12 of 1950, s. 8 (*1*).

(*5*) The regulations made under sub-section (*4*) shall be published in the *Official Gazette*.

(*6*) The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as to it may seem fit.

[1][(*6-A*) Where an appeal is made to the Tribunal under section 56 it may in order to prevent the ends of justice being defeated make such interlocutory orders pending the decision of the appeal as may appear to it to be just and convenient or such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Tribunal.]

(*7*) An order passed in appeal, or in revision under sub-section (*6*) [2][or in review under section 63B] by the Tribunal shall be final and conclusive and shall not be liable to be called in question in any civil or revenue court.]

Review of orders of Tribunal.

[3][63B. (*1*) The Tribunal may, either on the application of the Registrar or on the application of any party interested, review its own order in any case and pass in reference thereto such order as it thinks fit :

Provided that no such application made by the applicant shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason :

Provided further that no such order shall be varied or revised unless notice has been given to the parties interested to appear and be heard in support of such order.

(*2*) An application for review under sub-section (*1*) by any party shall be made within 90 days from the date of the communication of the order of the Tribunal.

Tribunal to have powers of civil court.

63C. (*1*) In exercising the functions conferred on it by or under this Act, the Tribunal shall have the same powers as are vested in courts in respect of—

(*a*) proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses.

(*2*) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.]

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[1] This sub-section was inserted by Bom. 12 of 1950, s. 8 (*2*).
[2] These words, figures and letter were inserted by Bom. 73 of 1954, s. 9.
[3] Sections 63B and 63C were inserted, *ibid.*, s. 10.

[1][64. (*1*) An appeal against an order or decision under section 10, 16, 45, 47, 50 or 50A, shall lie— Appeals.

(*a*) if made or sanctioned by the Registrar, to the State Government;

(*b*) if made or sanctioned by any person on whom the powers of the Registrar are conferred, to the Registrar:

Provided that no appeal shall lie against an order passed by the Registrar on appeal.

(*2*) An appeal under sub-section (*1*) shall be filed within two months of the date of the communication of the order or decision.]

[2][64-IA. In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.] Extension of period of limitation by appellate authority in certain cases.

64A. [3]The [4][State] Government] and the Registrar may call for and examine the record of any inquiry or the proceedings of any officer subordinate to them [5][except those referred to in sub-section (*6*) of section 63A] for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case, it shall appear to [3][the [4][State] Government] or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, [3][the [4][State] Government] or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit. Power of [4][State] Government and the Registrar to call for proceedings of Subordinate Officers and to pass orders thereon.

[6][CHAPTER XI.

[7][[8]*[FARMING SOCIETIES.]

[9][64B. This Chapter shall apply to [8]* Farming Societies: Application of this Chapter.

Provided that the [4][State] Government may, by general or special order, direct that the provisions of this Chapter shall also apply to any other class of societies and thereupon they shall apply as if such societies were [8]* Farming Societies.]

64C. In this Chapter, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "Board" means the Board constituted under section 64D;

[10]* * * * * *

(*c*) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture, and includes any officer appointed by [5][the [4][State] Government] to perform the duties of the Director of Agriculture under this Act;

(*d*) "Inquiry Officer" means an officer appointed to hold an inquiry under this Chapter:

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[1] Section 64 was substituted for the original, by Bom. 73 of 1954, s. 11.
[2] Section 64A-IA was inserted by Bom. 12 of 1950, s. 9.
[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[4] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] These words, brackets, figures and letter were inserted by Bom. 28 of 1948, s. 39.
[6] Chapter XI was inserted by Bom. 8 of 1936, s. 3.
[7] These words were substituted for the words "Crop Protection Societies" by Bom. 28 of 1948, s. 40.
[8] The word "Better" was deleted by Bom. 14 of 1949, s. 7 (*1*).
[9] Section 64B was substituted for the original by Bom. 28 of 1948, s. 41.
[10] Clause (*b*) was deleted by Bom. 14 of 1949, s. 7 (*2*).

(*e*) " Owner " includes an owner in severalty in common or joint and includes also an occupant as defined in the Bombay Land Revenue Code, 1879, a permanent tenant or tenant holding a lease for a period of not less than ten years and a mortgagee in possession. Bom. V of 1879.

64D. (*1*) For the purposes of this Chapter there shall be constituted a Board consisting of the Registrar and the Director of Agriculture. Constitution of Board.

(*2*) If there is a difference of opinion between the members of the Board regarding any question under the provisions of this Chapter, such question shall be referred to [1][the Provincial Government] and shall be determined in accordance with the decision of [1][the Provincial Government].

64E. (*1*) The Board shall appoint an Inquiry Officer for the purpose of holding inquiries under this Chapter. Appointment of an Inquiry Officer and his powers.

(*2*) For the purpose of such inquiries, the Inquiry Officer shall have—

(*a*) all the powers of the Registrar under section 58,

(*b*) power to enter upon, survey and take levels of lands proposed to be included in the scheme, to dig or bore into subsoil and to do all acts necessary for the purpose of the inquiry.

64F. (*1*) Persons interested in a [2][3* farming scheme] may make an application to the Registrar for the registration of a [1][3* Farming society.] Such application shall be made in accordance with the provisions of section 9 and shall specify the area affected by the scheme. It shall be accompanied by— Preliminary procedure.

(*a*) a detailed description and estimate of the cost of such scheme ;

(*b*) the names of such of the owners of the lands to be included in the scheme as may have given their consent to the making of the scheme ; and

(*c*) such other particulars as may be prescribed by rules.

(*2*) The application together with its accompaniments shall be published in the village or villages and at the headquarters of the taluka within the limits of which the lands proposed to be included in the scheme are situate.

64G. No [4][3* Farming society] shall be registered under section 10, unless the Board is satisfied, after such inquiry as it thinks necessary, that the scheme proposed by the society is feasible and that not less than 66 per cent. of the owners [5][in possession of not less than 75 per cent. in aggregate] of the land proposed to be included in the scheme have given their consent to the making of the scheme. For this purpose the Board shall record or cause to be recorded— Registration.

(*a*) a plan showing the area affected by the proposed scheme and the surrounding lands as shown in the map or maps of the village or villages affected.

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words " crop protection scheme " by Bom. 28 of 1948, s. 43.

[3] The word " better " was deleted by Bom. 14 of 1949, s. 7 (*3*).

[4] These words were substituted by Bom. 28 of 1948, s. 40.

[5] These words and figures were substituted for the words and figures " owning in aggregate not less than 75 per cent." *ibid.*, s. 44.

(*b*) an examination of the proposed scheme, with any amendments therein proposed by the Board;

(*c*) an extract from the record of rights showing the names of the owners of the lands, and the areas of the lands to be included in the scheme as approved by the Board;

(*d*) statements of such of the owners of such lands as consent to the making of such scheme signed by such owners before the Board or such officer as may be prescribed by rules;

(*e*) a detailed estimate of the costs of such scheme;

(*f*) a detailed statement showing how the cost is proposed to be met.

Publication of the scheme and inviting claims and objections.

64H. If the society is registered, the scheme shall be published along with the plans, in the village or villages and at the headquarters of the taluka within the limits of which the lands proposed to be included in the scheme are situate, together with a general notice inviting claims, if any. Separate notices shall, as far as possible, also be served on all owners of lands affected by the scheme and on all persons believed to be interested in the said lands. Such general and separate notices shall require all persons affected by the scheme who make any claims to appear personally or by agent before the Inquiry Officer at a time and place therein mentioned (such time not being earlier than fifteen days after the date of the publication of the scheme).

Inquiry by the Inquiry Officer.

64I. On the date fixed in the notices issued under section 64H or any other day to which the inquiry has been adjourned, the Inquiry Officer shall proceed to inquire into the claims (if any) which may have been made pursuant to the notices and shall hear and decide any other matter which may be required to be heard and decided by or under the provisions of this Chapter.

Decision of disputed claim.

64J. (*1*) If there is a dispute as to the ownership or possession of any piece of land proposed to be included in the scheme, the Inquiry Officer shall decide the dispute in accordance with the entries relating to such land in the Revenue records kept under any law for the time being in force. If there is no such record, or if in the opinion of the Inquiry Officer the entries in the Revenue record are inaccurate or inconclusive, he shall refer the matter to the Collector for decision. When the Collector decides such dispute, he shall communicate his decision to the Inquiry Officer and such decision shall, subject to the provisions of sub-section (*2*), be final for the purpose of the inquiry under this Chapter.

(*2*) In the event of a civil court passing a decree which is inconsistent with such decision, such decision shall be corrected, modified or rescinded in accordance with such decree, after such decree has been brought to the notice of the Inquiry Officer or the Board either by the civil court or by some person affected by such decree.

Report of Inquiry Officer.

64K. (*1*) After the inquiry under section 64I is completed, the Inquiry Officer shall make a report to the Board containing the following particulars:—

(*i*) the names of all the owners of lands affected by the scheme and the nature and extent of the right or interest of each in respect of such land,

(*ii*) the names of all persons whose rights or liabilities are affected and the manner in which they are affected by the scheme,

(*iii*) a detailed estimate of the net cost of the scheme to be borne by the society,

(*iv*) a detailed estimate of the amounts of compensation to be paid to, or of the amounts to be recovered from, persons affected by the scheme,

(*v*) the manner in which recurring costs of the maintenance of, and other expenses incidental to, the scheme shall be fixed and recovered,

(*vi*) any other particulars prescribed by or under the Act or the rules.

(*2*) Such report shall be published in the village or villages and at the headquarters of the taluka within the limits of which the lands included in the scheme are situate and separate notice of such report shall as far as practicable be given to all persons mentioned in clause (*ii*) of sub-section (*1*).

(*3*) Any person aggrieved by the report of the Inquiry Officer may appeal to the Board.

Board may sanction scheme with or without modification or may refuse to give sanction.

64L. (*1*) On receipt of the report of the Inquiry Officer the Board may, in consultation with the Collector, after deciding such appeals as may have been made under section 64K and making such further inquiry as it may think fit, either sanction with or without modifications or refuse to give sanction to the scheme.

Appeal.

(*2*) Any person aggrieved by the decision of the Board may, within a period of the thirty days from the date of such decision, appeal to [1][the Provincial Government], who may pass such order as they deem fit.

Scheme to become final on publication.

(*3*) If an appeal is made within the period prescribed in sub-section (*2*) and [1][the Provincial Government] decide to sanction the scheme with or without modifications, the scheme as sanctioned by [1][the Provincial Government], or, if no appeal is made within the period aforesaid, the scheme as sanctioned by the Board, shall be published in the [2][*Official Gazette*] and in any other way which may be prescribed and shall, on such publication, be final.

Effect of scheme.

64M. On the day on which the scheme as sanctioned is published under section 64L, it shall come into force and all the owners of lands included therein, whether they are members of the society or not, shall have such rights and shall be subject to such liabilities as are conferred or imposed on them under the scheme.

Power to enforce scheme.

64N. On and after the day on which the scheme comes into force, the [3][[4]* Farming society] concerned may, after giving the prescribed notice and in accordance with the provisions of the scheme, execute any work which it is the duty of any person to execute under the scheme. Any expense incurred by the society under this section may be recovered from the persons in default in the manner prescribed in section 64Q.

Contribution towards the costs of the scheme.

64O. (*1*) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the society from each owner of land affected by the scheme including those who may have refused to become members of the society in accordance with the decision of the Board.

(*2*) The owner of the land affected by the scheme shall be primarily liable for the payment of the contribution leviable in respect of such land.

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[1] The words, "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "Better Farming Society" were substituted for the words "Crop Protection Society" by Bom. 28 of 1948, s. 40.

[4] The word "Better" was deleted by Bom. 14 of 1949, s. 7 (*3*).

Dues of [1][2*Farming societies] to be first charge.

64P. Subject to the provisions of section 24, any outstanding demands or dues payable to a [1][2 * Farming society] by any member or past member in respect of any rent, shares, loans, contributions, or any other rights or amounts payable to such society shall be a first charge upon his interest in the crops or other agricultural produce on the land included in the scheme.

Recovery of arrears.

64Q. Any some due to a society under the provisions of this Chapter shall, on application for its recovery being made by such society, be recoverable by the Collector according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

Power to exempt Farming societies from provisions of Chapter XI.

[3][**64R.** (*1*) Notwithstanding anything contained in section 64B, the Provincial Government may, by general or special order to be published in the *Official Gazette*, exempt any Farming society or class of such societies from any of the provisions of Chapter XI.

(*2*) Any Farming society in respect of which a certificate of registration has been issued by the Registrar under section 10 before the date on which the Bombay Co-operative Societies (Amendment) Act, 1949, comes into force, shall be deemed to have been validly registered, notwithstanding that any of the provisions of Chapter XI as to registration have not been complied with.] Bom. XIV of 1949.

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[4][CHAPTER XII.

MISCELLANEOUS.]

Recovery of sums due to the Crown.

65. (*1*) All sums due from a society or from an officer or member or past member of a society as such to [5][the Crown], may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(*2*) Sums due from a society to [5][the Crown] and recoverable under sub-section (*1*) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members or past members subject to the limit of their liability; and, thirdly in the case of other societies, from the members or past members.

(*3*) The liability of past members shall in all cases be subject to the provisions of section 28.

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[1] The words "Better Farming Societies" were substituted for the words "Crop Protection Societies" by Bom. 28 of 1948, s. 40.

[2] The word "Better" was deleted by Bom. 14 of 1949, s. 7 (3).

[3] This section was inserted, *ibid.*, s. 8.

[4] The words and figures "Chapter XII—Miscellaneous" were substituted for the word "Miscellaneous" by Bom. 8 of 1936, s. 4.

[5] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Power to exempt societies from conditions as to registration.

66. Notwithstanding anything contained in this Act, the [1][Provincial Government] may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

Power to exempt societies from provisions of Act.

67. [1][The Provincial Government] may, by general or special order to be published in the [2][*Official Gazette*], exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order; provided that no order to the prejudice of any society shall be passed without an opportunity being given to such society to represent its case.

Indian Companies Act not to apply.

VII of 1913. **68.** The provisions of the [3]Indian Companies Act of 1913, shall not apply to societies, registered under this Act.

Branches, etc. of societies outside the Presidency.

69. Every Co-operative Society registered outside the Bombay Presidency, which has or establishes a branch or place of business in the Bombay Presidency shall within six months from the commencement of this Act or from the establishment of such branch or place of business, file with the Registrar a certified copy of the by-laws and amendments and, if these are not written in the English language, a certified translation in English thereof, and shall submit to the Registrar such returns and information as are submitted by similar societies in the Bombay Presidency in addition to those submitted to the Registrar of the Province where it is registered.

Notice necessary in suits.

70. No suit shall be instituted against a society or any of its officers in respect of any act touching the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

Rules.

71. (*1*) [1][The Provincial Government] may, for the whole or any part of the presidency and for any society or class of societies, make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) subject to the provisions of section 6, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(*b*) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] See Central Acts.

(*c*) prescribe the matters in respect of which a society may or shall make by-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(*d*) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(*e*) provide for ascertaining the value of a deceased member's share or interest;

(*f*) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(*g*) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the Committee and other officers;

[1][(*ga*) prescribe the manner of giving notice of the preliminary resolution under sub-section (*2*) of section 15A];

(*h*) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;

(*i*) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;

(*j*) provide for the persons by whom and the form in which copies of documents or entries in books of societies may be certified, and for the charges to be levied for the supply of such copies;

(*k*) provide for the formation and maintenance of a register of members, and where the liability of the members is limited by shares, of a register of shares;

(*l*) prescribe the payments to be made and the conditions to be complied with by members applying for loans, and the period for which loans may be made, and the amount which may be lent to an individual member;

(*m*) prescribe the prohibitions and restrictions subject to which societies may trade [2][or transact business] with persons who are not members;

(*n*) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of a society;

[3][(*na*) prescribe the rate at which a society shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute];

(*o*) prescribe the extent to which a society may limit the number of its members;

(*p*) prescribe the conditions under which profits may be distributed to the members of a society and the maximum rate of dividend which may be paid by societies;

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[1] Clause (*ga*) was inserted by Bom. 28 of 1948, s. 45 (*1*).

[2] The words "or transact business" were inserted by Bom. 8 of 1936, s. 5 (*a*).

[3] Clause (*na*) was inserted by Bom. 28 of 1948, s. 45 (*2*).

(*q*) prescribe the procedure to be followed in presenting and disposing of appeals;

[1][(*qa*) prescribe the qualifications of the members of the Tribunal ;]

(*r*) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that shares shall not appreciate in value and that necessary capital shall be available for the society as required ;

(*s*) provide that persons qualified under the bye-laws of a society shall not be excluded from membership without due cause ;

(*t*) prescribe the procedure to be followed by a liquidator appointed under section 47 ;

(*u*) prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator of arbitrators and for fixing and levying the expenses of determining the dispute ;

(*v*) provide for the issue and service of processes and for proof of service thereof ;

(*w*) provide for the writing off of bad debts ;

(*x*) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ;

(*y*) provide for the withdrawal and expulsion of members and for the payments to be made to them and for the liabilities of past members ;

(*z*) provide for the nomination of a person to whom the interest of a deceased member may be paid or transferred ;

(*aa*) prescribe the cases in which an appeal shall lie from the order of a liquidator appointed under section 47 ;

(*bb*) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same ;

(*cc*) prescribe the procedure to be followed for the custody of property attached under section 55 ;

(*dd*) provide for the payment of contribution at such rates and subject to such conditions as may from time to time be prescribed by co-operative societies to any provident fund which may be established for the benefit of officers and servants employed by them ; [2]*

(*ee*) prescribe the period and terms under which Government aid may be given to co-operative societies and the terms under which [3][the [4][State Government] may guarantee the payment of [5][the principal of and] interest on debentures issued by registered societies ;

[6][(*ff*) prescribe the particulars to be furnished by the persons applying for the registration of a [7][Farming society] under section 64F ;

(*gg*) prescribe the officer before whom the statements of owners referred to in section 64 G may be signed ;

(*hh*) prescribe the manner in which the inquiry shall be held by the Board or the Inquiry Officer under Chapter XI ;

(*ii*) prescribe the particulars to be mentioned in an Inquiry Officer's report under clause (*vi*) of sub-section (*1*) of section 64-K ;

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[1] Clause (*qa*) was inserted Bom. 28 of 1948, s. 45 (*3*).

[2] The word "and" was omitted by Bom. 8 of 1936, s. 5 (*b*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "the principal of and" were inserted by Bom. 22 of 1935, s. 5 (*1*).

[6] Clauses (*ff*), (*gg*), (*hh*), (*ii*), (*jj*) and (*kk*) were inserted by Bom. 8 of 1936, s. 5 (*c*).

[7] These words were substituted for the words "Crop Protection Society" by Bom. 53 of 1949, s. 3, Second Schedule.

(*jj*) prescribe the manner in which the scheme shall be published otherwise than in the [1][*Official Gazette*] under sub-section (*3*) of section 64-L;

(*kk*) provide for any other matter which is or may be prescribed or for which no provision exists and provision is, in the opinion of [2][the [3][State] Government], necessary for the purpose of carrying out a [4][farming scheme].

[5][(*ll*) prescribing the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by, a society under section 59A.]

(*3*) [2][The [3][State] Government] may, subject to such conditions, if any as it thinks fit, delegate all or any of its powers to make rules under this section to any authority specified in the order of delegation.

(*4*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(*5*) The rules so made shall be laid on the table of [6][each of the [7][Houses] of the [3][State] Legislature] for one month previous to the next session thereof and shall be liable to be rescinde or modified [8][by a resolution in which each of the [7][Houses] concurs at the said next session].

Saving of existing societies.

72. (*1*) Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904, or under the Co-operative Societies Act, 1912, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded. X of 1904 II of 1912.

(*2*) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted, under the said Act shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

Construction of references to Co-operative Societies Act, 1912, in enactments.

[9][**72A.** All references to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in [10]* India and for the time being in force in the Presidency of Bombay shall, in the application, to the said Presidency, of any such enactment, be read and construed as references to this Act and anything done or any proceeding commenced in pursuance of any such enactment on or after the date on which this Act shall have come into operation shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Co-operative Societies Act, 1912, had been the reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.] II of 1912. II of 1912.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[3] This word was substituted for the words "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the words "crop protection scheme" by Bom. 53 of 1949, s. 3, Second Schedule.

[5] This clause, which was inserted by Bom. 22 of 1935, s. 5 (*2*) as clause (*ff*), was relettered as clause (*ll*) by Bom. 24 of 1936, s. 2, Sch.

[6] The words "each of the Chambers of the Provincial Legislature" were substituted for the words "the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[7] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.

[8] The words "by a resolution in which each of the Chambers concurs at the said next section" were substituted for the words "by a resolution of the said Council tabled at its next session" by the Adaptation of Indian Laws Order in Council.

[9] This section was inserted by Bom. 8 of 1933, s. 2.

[10] This word "British" was omitted by the Adaptation of Laws Order, 1950.

[1]72B. Where any property is handed over to any society in pursuance of the provisions of sub-section (2) of section 59 prior to its repeal, such transfer to the society shall be deemed to be or to have been invalid and the validity of any term or condition of such transfer agreed between the Collector and the society under the said sub-section or of any rights or liabilities lawfully arising out of such transfer, term or condition shall not be deemed to be or to have been affected by the repeal of the said sub-section or by reason only of the fact that such property was not attached in execution of an order referred to in sub-section (*1*) of the said section.] Validity of transfer made under section 59 (2) of Bom. VII of 1925.

73. The enactments specified in the Schedule are hereby repealed in so far as they apply to the Bombay Presidency to the extent specified in the fourth column of the said Schedule. Repeal.

SCHEDULE.

Enactments repealed.

(*See* section 73.)

Year.	No.	Short title.	Extent of repeal.
		Acts of the Governor General in Council.	
1912	... II	The Co-operative Societies Act, 1912[2]	... The whole.
1920	... XXXVIII	The Devolution Act, 1920[2]	... So much as relates to Act II of 1912.
		Act of the Governor of Bombay in Council.	
1920	... I	The Bombay Land Revenue Code (Amendment) Act, 1920.	The whole.

[1] This section was inserted by Bom. 22 of 1935, s. 6.

[2] See Central Acts.

THE BOMBAY SECURITIES CONTRACTS CONTROL ACT, 1925.

CONTENTS.

PREAMBLE.

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1. Short title.
2. Extent and operation.
3. Definitions.
4. Recognition.
5. Rules.
6. Contracts not made subject to rules to be void.

†BOMBAY ACT No. VIII of 1925.[1]

[THE BOMBAY SECURITIES CONTRACTS CONTROL ACT, 1925.]

[*29th December 1925.*]

Amended by Bom. 9 of 1927.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay and elsewhere in the Bombay Presidency.

WHEREAS it is expedient to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay and elsewhere in the Bombay Presidency in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by section 80A (*3*) of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

*1. This Act may be called the Bombay Securities Contracts Control Act, 1925. Short title.

2. (*1*) This Act shall apply to the whole of the Presidency of Bombay. Extent and operation.

(*2*) It shall come into [2]operation in the city of Bombay on such date as the [3]Provincial Government] may, by notification in the [4][*Official Gazette*], appoint: the [3]Provincial Government] may further, by notification in the [4][*Official Gazette*], direct that the Act shall come into operation in any place in the Bombay Presidency other than the city of Bombay on such date as may be specified in such notification.

3. In this Act unless there is something repugnant in the subject or context, Definitions.

(*1*) "securities" include stocks, shares, bonds, debentures, debenture stock and any other instruments of a like nature.

(*2*) "stock-exchange" means any association, organisation or body of individuals, whether incorporated or not, established for the purpose of assisting, regulating and controlling business in buying, selling and dealing in stocks, shares, bonds, debentures, debenture stock and any other like securities.

(*3*) "recognised stock-exchange" means a stock-exchange which is, for the time being, recognised by the [3]Provincial Government] as provided in section 4.

(*4*) "ready delivery contract" means a contract for the purchase or sale of securities for performance of which no time is specified and which is to be performed immediately or within a reasonable time.

Explanation.—The question what is a reasonable time is in each particular case a question of fact.

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† On the date on which an association is recognised under section 3 of the Bombay Forward Contracts Control Act, 1947, in any area in respect of securities, this Act shall cease to have force in such area (*vide* Bom. 64 of 1947, s. 14(*1*)).

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, p. 447; for Report of Select Committee, *see* p. 1037 of Appendix to Vol. XVI of the Bombay Legislative Council Debates, 1925; and for Proceedings in Council, *see ibid.*, Vol. XVI.

[2] This Act came into operation in the City of Bombay on the 1st January 1926 (*vide* Government Notification in the Finance Department No. 2902-A, dated the 30th December 1925, published in the *Bombay Government Gazette*, 1925, Part I, p. 3361).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for th words "*Bombay Government Gazette*", *ibid.*

Recognition.

4. (*1*) A stock-exchange desirous of being recognized for the purpose of this Act shall make an application in writing to the [1][Provincial Government] for such recognition, and shall submit rules for the regulation and control of transactions in securities other than ready delivery contracts and furnish such information in regard to such recognition as the [1][Provincial Government] may require.

(*2*) The [1][Provincial Government] may give or refuse such recognition provided that the rules submitted by the stock-exchange under sub-section (*1*) shall be published in the [2][*Official Gazette*] one month before such recognition is given.

(*3*) The [1][Provincial Government] may at any time withdraw the recognition given to a stock-exchange under sub-section (*2*), and such stock-exchange shall thereupon cease to be a recognized stock-exchange.

Rules.

5. (*1*) A stock-exchange subject to the sanction of the [1][Provincial Government] may make and may from time to time add to, vary or rescind rules for the regulation and control of transactions in securities (other than ready delivery contracts).

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for :—

(*a*) the government of the stock-exchange by a governing body and the constitution of such governing body ;

(*b*) the powers and duties of the governing body and the manner in which its business shall be transacted ;

(*c*) the fixing of a scale of charges ;

(*d*) the making, settling and closing of bargains ;

(*e*) the exercise of emergency powers in the case of corners ;

(*f*) the regulation of dealings by members for their own account ; and

(*g*) the settlement of disputes arising between members and the punishment of defaulting members.

(*3*) Rules made by a stock-exchange under sub-section (*1*) shall be published in the [2][*Official Gazette*] one month before they are sanctioned by the [1][Provincial Government] and shall again be published after sanction.

Contracts not made subject to rules to be void.

6. Every contract for the purchase or sale of securities, other than a ready delivery contract, entered into after a date to be notified in this behalf by the [1][Provincial Government] shall be void, unless the same is made subject to and in accordance with the rules duly sanctioned under section [3][5] and every such contract shall be void unless the same is made between members or through a member of a recognised stock-exchange ; and no claim shall be allowed in any Civil Court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

[3] This figure was substituted for the figure " 4 " by Bom. 9 of 1927, s. 2, First Schedule.

THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925.

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20. Resignation of president and vice-president.

21. Liability of president and vice-president to removal.

22. Consequences of absence of president or vice-president without leave.
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24A. Validation of acts of expired municipalities.

25. Term of office of councillors after general election.

26. Resignation of councillors.

27. Liability of councillors to removal from office.

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61. Power to make by-laws ;
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pilgrims' lodging houses ;
stalling of cattle, etc ;
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for regulating dairies and cattle-sheds ;
milk-stores, etc.;
registration of births, etc.;
regulating the disposal of the dead ;
for enforcing supply of information as to epidemics ;
for enforcing information as to liability to municipal taxation ;
octroi ;
terminal tax ;
for protecting water ;
public baths, etc.;
conservancy ;
temporary structures and buildings ;
buildings ;
streets ;
ventilation ;
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80. Publication of notice of assessment list.
81. Public notice of time fixed for lodging objections.
Objections how to be made.
Hearing of objections.
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Custody and inspection of list.
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82. Amendment of assessment list. Notice of new buildings.
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84A. Power of State Government to appoint person to prepare and authenticate list in case of default by municipality.
85. Tax from whom primarily leviable.
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86. Remission of tax in case of vacancies: when obligatory.
When discretional.
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88. Form of notice.
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90. Fees may be charged for certain licences.
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93. Octroi by-laws to be submitted with proposal for imposition of octroi.
94. Power to examine articles liable to octroi.
Power to search where octroi is leviable.
95. Presentation of bills for octroi.
96. Penalty for evasion of octroi.
97. Tables of tolls to be shown on demand.
98. Power to seize vehicle or animal or goods on non-payment of octroi or toll.
Power to sell property seized at once.
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Sale.
Surplus how dealt with.
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To whom warrant should be addressed.
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106. Sale of goods distrained in special cases.
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108. Fees and costs chargeable.
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115. Power to require repair, etc., of private streets.
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116. Power to declare any street a public street subject to objections by the owners.
117. New private streets.
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122. Level of buildings.
123. Notice of new buildings.
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123A. Power of Municipality to refuse permission.
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125. Regulation of huts.
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128. Powers for making and repairing drains.
129. Power to require sufficient drainage of houses.
130. New buildings not to be erected without drains.
131. Powers of owners and occupiers of buildings or lands to drain into municipal drains.
132. Right to carry drain through land or into drain belonging to other persons.
133. Rights of owner of land through which drain is carried in regard to subsequent building thereon.
134. Provision of privies, etc.
135. Power to require owners to keep drains, etc., in proper order or to demolish or close a privy or cesspool.
136. Power to close existing private drains.
137. Power in respect of sewers, etc., unauthorizedly constructed, rebuilt or unstopped.
138. Encroachments on municipal drains.
139. Inspection of drains, etc. Expense of inspection when to be borne by the municipality.
140. Standing committee may execute certain works under this sub-chapter without allowing option to person concerned of executing the same.
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141. Pipes, etc., constructed by municipality to be municipal property.

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(5) Powers regarding external structures, etc.

143. Permission necessary for certain projections.
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144. Troughs and pipes for rain water.
145. Fixing of lamps, brackets, etc., to houses.
146. Naming streets and numbering houses; penalty for defacing, etc.
147. Penalty for defacing building, etc.
148. Removal and trimming of hedges, trees, etc.

(6) Powers for promotion of public health, safety and convenience.

149. Ruinous or dangerous buildings; precautionary measures.
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150. Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.
Remedy on non-compliance with directions issued.
151. Displacing pavements, etc.
Penalty for failure to replace after notice.
152. Obstructions and encroachments upon public streets and open spaces.
153. Hoards to be set up during repairs, etc.
154. Fencing and lighting during repairs, etc.
155. Timber not to be deposited or hole made in street without permission.
156. Dangerous quarrying.
157. Provision as to dogs.
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158. Depositing dust, etc.; committing nuisance.
159. Discharging sewage, etc.
160. Non-removal of filth, etc.
161. Removal of night soil.
162. Filthy buildings, etc.
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163. Buildings or rooms in buildings unfit for human habitation.
164. Power to enter and inspect, etc., buildings.
165. Bathing places.
165A. Regulation of washing of clothes by washermen.
Washing place to be provided by the standing committee for washermen.
166. Fouling water.
167. Abatement of nuisance from wells, etc.
168. Using offensive manure, etc.
169. Tethering cattle, etc.
170. Feeding animals on filth.
171. Consumption of smoke.

(8) Regulation of markets, sale of food, etc.

172. Licensing markets and slaughter-houses.
173. Opening, closing and letting of markets and slaughter-houses.

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174. Farming of market and slaughter-house rents.
174A. Power to remove persons from municipal markets.
175. Slaughter-houses, etc., beyond municipal limits.
176. Search for and inspection of unwhole-some articles.
Adulterated articles for food or drink.
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Application for summons to be refused if not applied for within reasonable time.
177. Powers of inspection of weights and measures, etc.

(9) Regulation of dairies and cattle sheds.

178. Licensing of dairies.

(10) Prevention of dangerous diseases.

179. Powers to prevent disease which may at any time be conferred.
180. Duties of municipality on threatened or actual outbreak of dangerous disease.
181. Withdrawal and modification of powers and orders.
182. Duties of municipality in respect of diseases among cattle, sheep or goats.
183. Proceedings to abate the overcrowding of the interiors of buildings.
184. Special powers which may be conferred by the State Government in respect of overcrowded area.
185. Closing of places for disposal of the dead.

(11) Nuisances from certain trades and occupations.

186. Regulation of certain trades.
Liability to penalty after notice.
Penalty for unlicensed places in district in which by-laws under section 61 (*1*) (*b*) (*iii*) are in force.
187. Prohibition of use of steam-whistles, etc.
188. Loitering or importuning for purposes of prostitution.
189. Brothels.

(12) Regulation of pilgrims' lodging houses.

190. Pilgrims' lodging houses.

(13) Powers in case of fire.

191. Police and municipal officers to aid fire-brigade.

(14) Service of notices, penalties on non-compliance therewith, and execution of works on default.

192. Service of notices, etc. addressed to individuals.
Service of notices on owners or occupiers of buildings and lands.
Public and general notices how to be published.
Defective form not to invalidate notice.
Execution of acts required to be done by any notice.

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193. Punishment for disobedience of orders and notices not punishable under any other section.

193A. General penalty.

194. Municipality in default of owner or occupier may execute works and recover expenses.

Agreement for construction of drainage and water connections.

Improvement expenses.

Power to levy charges on occupier who may deduct the same from his rent.

Occupiers not to be liable for more than the amount of rent due.

195. Occupier in default of owner, may execute works and deduct expenses from his rent.

196. Proceedings if any occupier opposes the execution of the Act.

(*15*) *Miscellaneous.*

197. Entry for purposes of the Act.

198. Arbitration in cases of compensation, etc.

198A. Requisitioning of premises, vehicles, etc., for municipal elections.

198B. Payment of compensation.

198C. Power to obtain information.

198D. Eviction from requisitioned premises.

198E. Release of premises from requisition.

198F. Penalty for contravention of any order regarding requisitioning.

199. Costs or expenses how determined and recovered.

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200. Municipality may prosecute.
Jurisdiction of Magistrate ; recovery of compensation and expenses.

201. Distress lawful though defective in form.

202. Damage to municipal property how made good.

203. Alternative procedure by suit.

204. Power to sue, compromise and pay compensation.

205. Assistance for the recovery of rent on land.

206. Bar of suits against municipality, its officers, servants, etc., for acts done in good faith.

206A. Limitation of suits against municipality, its officers and servants for acts done in pursuance of execution of this Act.

207. Powers of police officers.

208. Accounts to be kept.

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MUNICIPAL ACCOUNTS.

209. Presentation of accounts. Budget estimates.
210. Audit of accounts.
211. Transmission of accounts to State Government.
212. Publication of accounts.

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ABSORPTION OF A VILLAGE PANCHAYAT AREA INTO A MUNICIPAL BOROUGH.

212A. Interpretation.
212B. Effect of absorption of village panchayat area into Municipal borough.

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213. Power of inspection and supervision.
214. Powers of Director of Local Authorities to suspend execution of orders, etc., of municipalities.
215. Extraordinary powers of Director of Local Authorities in case of emergency.
216. Power of Commissioner to prevent extravagance in the employment of establishment.
217. Inquiry into municipal matters by State Government.
218. Power of State Government to provide for performance of duties on default by municipality.
219. Power of State Government to dissolve or supersede municipality in case of incompetency, default or abuse of power.
Consequences of dissolution or supersession.
Re-establishment of municipality after dissolution.
Power after inquiry to continue period of supersession.
220. Powers of State Government and of the Commissioners over Collectors, etc.
221. All rules made by the State Government or Commissioner to be laid before each House of the State Legislature.

SCHEDULES I—VII.

BOMBAY ACT No. XVIII OF 1925.[1]

[THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925.]

[*8th June 1926*]

Amended by Bom. 10 of 1926.
" " " 1 of 1927.
" " " 12 of 1927.
" " " 3 of 1930.
" " " 4 of 1930.
" " " 9 of 1930.
" " " 25 of 1930.
" " " 12 of 1931.
" " " 23 of 1931.
" " " 7 of 1932.
" " " 15 of 1932.
" " " 17 of 1933.
" " " 14 of 1934.
" " " 19 of 1935.
" " " 14 of 1936.
" " " 15 of 1936.
" " " 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 9 of 1938.*
" " " 8 of 1939.
" " " 20 of 1944.†
" " " 17 of 1945.‡
" " " 22 of 1945.†
" " " 7 of 1946.†

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, pages 187–195; for Report of the Select Committee, *see ibid.*, pages 335–342; and for Proceedings in Council, *see* Council Debates, 1925, Volumes XV and XVI.

*Section 9 of Bom. 9 of 1938, reads as under:—

"9. (*1*) Nothing in this Act shall affect any municipality constituted under the District Act or the Boroughs Act or any committee of such municipality constituted immediately before the commencement of this Act, and no appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law, or form made, issued or imposed by or in respect of such municipality or committee shall be deemed to be invalid by reason only of the fact that this Act has come into force. Saving.

(*2*) Notwithstanding anything contained in this Act, any casual vacancy in such municipality or any committee thereof, shall in the case of a municipality constituted under the District Act, subject to section 17 of the said Act and in the case of municipality constituted under the Boroughs Act subject to section 25 of the said Act, be filled in the manner provided by either of the said Acts, as the case may be, as if this had not come into force."

†These Acts have been repealed and re-enacted by Bom. I of 1947.

‡This Act was repealed and re-enacted, and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Amended by Bom. 1 of 1947.

,, ,, ,, 2 of 1947.

,, ,, ,, 41 of 1947.§

Adapted by the India (Adaptation of Existing Indian Laws) Order, 1947.

Amended by Bom. 36 of 1949.

,, ,, ,, 8 of 1950.

,, ,, ,, 17 of 1950.**

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 40 of 1950.

,, ,, ,, 9 of 1951.

,, ,, ,, 44 of 1951.

,, ,, ,, 26 of 1953.

,, ,, ,, 8 of 1954.

,, ,, ,, 20 of 1954.

,, ,, ,, 35 of 1954.

,, ,, ,, 53 of 1954.

,, ,, ,, 54 of 1954.††

,, ,, ,, 2 of 1955.

,, ,, ,, 35 of 1955.*

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§Section 7 of Bom. 41 of 1947 reads as under :—

Savings. "7. Nothing in this Act shall affect any local board or any municipality constituted immediately before the coming into operation of this Act; and notwithstanding anything contained in this Act any casual vacancy in such local board or municipality shall be filled in the manner provided by the respective principal Act under which it was constituted, as if this Act had not come into operation."

**Section 8 of Bom. 17 of 1950 reads as follows :—

Saving. "8. Nothing in this Act shall affect the right of any Councillors or members elected to fill the seats reserved for Muslims or Mohammedans, Anglo Indians or Indian Christians to continue as a Councillor or member of a municipality, local board or village panchayat, as the case may be, during the term of the office for which he was validly elected before this Act came into force.

††Amendments made by this Act have been given retrospective effect, *see* s. 3 of Bom. 54 of 1954.

*Section 23 of Bom. 35 of 1955 reads as under :—

Amendments made by sections 14, 15 and 18 to apply to elections held after 31st December 1955. "23. The amendments made in the Municipal Boroughs Act by sections 14, 15 and 18 of this Act shall have effect for the purposes of elections of members for any ward of the municipal borough to be held under the Municipal Boroughs Act after the thirty-first day of December 1955 and for all subsequent elections. For the purposes of any elections to be held during the period from the date of the coming into force of this Act to the thirty-first day of December 1955 (both inclusive) the list of voters in force on the date of the coming into force of this Act shall continue to operate."

An Act to give wider powers in the management of municipal affairs in certain cities.

WHEREAS it is expedient to amend the law relating to the management of municipal affairs in certain cities of the Bombay Presidency;

5 & 6 Geo. V, c. 61. And Whereas the previous sanction of the Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay [1][Municipal Boroughs] Act, 1925.

(*2*) It extends to the whole of the Bombay Presidency.

2. [*Act V of 1868 not to apply to powers under this Act.*] *Omitted by the Adaptation of Indian Laws Order in Council.*

Definitions.

3. In this Act and in the schedules, unless there be something repugnant in the subject or context—

(*1*) "Annual letting value" shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situate therein or thereon might reasonably be expected to let from year to year, and shall include all payments made or agreed to be made by a tenant to the owner of the building or land on account of occupation, taxes, insurance or other charges incidental to his tenancy.

(*2*) "Building" shall include any hut, shed or other enclosure, whether used as a human dwelling or for any other purpose, and shall also include walls [2][including compound walls and fencing], verandahs, fixed platforms, plinths, doorsteps and the like.

[3]* * * * * * * *

(*4*) "Councillor" shall mean any person legally a member of the municipality in a municipal borough.

(*5*) "Dangerous disease" shall mean cholera, plague, small-pox and any endemic, epidemic or infectious disease by which the life of man is endangered.

[4][(*5A*) "Director of Local Authorities" shall mean the officer appointed for the time being by the State Government to be the Director of Local Authorities;]

(*6*) "House-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or affording access to a privy, urinal, cess-pool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom.

(*7*) "Judge" shall mean District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, [5][Civil] Judge, or Joint [5][Civil] Judge.

(*8*) "Land" shall include land which is built upon or covered with water.

(*9*) "Municipal borough" shall mean a Municipal district as defined in the Bombay District Municipal Act, 1901, included or hereafter included in Schedule I during the period of such inclusion.

Bom. III of 1901.

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[1] These words were substituted for the words "City Municiplities" by Bom. 4 of 1930, s. 4.
[2] These words were inserted by Bom. 36 of 1949, s. 2.
[3] Clause (*3*) was deleted by Bom. 28 of 1950, Sch.
[4] Clause (*5-A*) was inserted by Bom. 26 of 1953, s. 17.
[5] This word was substituted for the word "Subordinate" by Bom. 9 of 1951, s. 3, Second Schedule.

Bom. III of 1901.

(*10*) " Municipal district " shall mean a municipal district as defined in the Bombay District Municipal Act, 1901.

(*11*) " Nuisance " shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

(*12*) " Octroi shall include a terminal tax.

(*13*) " Official year shall mean the year commencing on the first day of April.

(*14*) " Owner " shall include the person for the time being receiving the rent of any land or building, whether on his own account or as agent or trustee for any other person or for any society or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant.

(*15*) " Public securities " shall mean—

(*a*) securities of the [1][Central Government] and of the [2][[3][State] Government] ;

(*b*) stocks, debentures or shares in railway or other companies the interest whereon has been guaranteed by the Secretary of State for India in Council [4][or the Central or the [3][State] Government] ;

(*c*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by [5][a Central Act or an Act of a legislature established in a Part A State or a Part C State] ; or

(*d*) a security expressly authorized by any order which [6][the [4][State] Government] makes in this behalf.

(*16*) " Public Street " shall mean any street—

(*a*) over which the public have a right of way ; or

(*b*) heretofore levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds ; or

(*c*) which under the provisions of section 115 or 116 is declared by the municipality to be, or under any other provisions of this Act becomes a public street.

(*17*) " Private street " means a street which is not a public street.

(*18*) " Salaried [7][servant of the [8][Government] " shall not include a retired [7][servant of the [8][Government] in receipt of a pension or a person in receipt of a salary [9][from the [8][Government] who is not a full time [7][servant of the [8][Government].

(*19*) " Street " shall mean any road, footway, square, court, alley or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not ; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and

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[1] The words "Central Government " were substituted for the words " Governwent of India" by the Adaptation of Indian Laws Order in Council.

[2] The words " Provincial Government " were substituted for the words " Local Government ", *ibid.*

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The words " or the Central or the Provincial Government " were inserted, by the Adaptation of Ind an Laws Order in Council.

[5] This portion was substituted for the portion " an Act of a Legislature established in British India " by the Adaptation of Laws Order, 1950.

[6] The words " The Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[7] The words " servant of the Government ", were substituted for the words " servant of the Crown," *ibid.*

[8] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[9] The words " from the Government " were substituted for the words " from the Crown " by the Adaptation of Indian Laws Order in Council.

if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not ; but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

(*20*) "Tax" shall mean any toll, rate, cess, fee or other impost leviable under this Act and shall include a water rate.

(*21*) "Vehicle" shall include bicycles, tricycles, motor cars, and every wheeled conveyance which is used or capable of being used on a public street.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

(*1*) *Municipal boroughs.*

Extension of Act to and withdrawal of Act from municipal districts and boroughs.

4. (*1*) [1][The [2]State] Government] may, by notification in the [3][*Official Gazette*] and with effect from a date to be specified in the said notification, include in Schedule I any municipal district [4]* * or exclude any municipal boroughs from the said Schedule.

(*2*) [1][The [2]State] Government] may, after consulting the municipality, by notification in the [3][*Official Gazette*] and with effect from a date to be specified in the said notification, extend, contract or otherwise alter the limits of any municipal borough

Limits to be specified in notification altering area.

(*3*) A notification altering the limits of a municipal borough shall clearly setforth the local limits of the area to be included in or excluded from such municipal borough.

Property and rights of municipalities which have ceased to exist to vest in the provincial Government.

[5][(*4*) Save where it is otherwise provided in this Act, when a municipality ceases to exist on account of its members ceasing to hold office, or for any other reason whatsoever, the property and rights vested in the municipality shall, subject to all charges and liabilities affecting the same, vest in [6]Government, and the proceeds thereof, if any, shall be expended under the orders of [1][the [2]State] Government] for the benefit of the local area in which such municipality had jurisdiction.]

Bom. III of 1901 not to apply to municipal boroughs.

5. (*1*) The provisions of the Bombay District Municipal Act, 1901, shall not apply to any municipal district included or hereafter included in Schedule I from the date of such inclusion : Bom. III of 1901.

Provided that—

(*a*) references in any other enactment or in any instrument to the Bombay District Municipal Act, 1901, shall, unless a different intention appears, be construed in respect of any municipal borough as references to this Act, Bom. III of 1901.

Continuance of acts, notifications, etc. in respect of boroughs.

(*b*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, in respect of a municipal district included or hereafter included in Schedule I, so far as is not inconsistent with the provisions of Bom. III of 1901

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] The words "other than the municipal district of Karachi" were repealed by Bom. 17 of 1933, s.4.

[5] This sub-section was inserted by Bom. 1 of 1927, s.2.

[6] This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

this Act, and any appointment, notification, order, scheme, rule, by-law or form made or issued under any other law in respect of such district shall continue in force and be deemed to have been made, issued or imposed under the provisions of this Act or of such other law in respect of the municipal borough constituted by such inclusion unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made or issued under this Act or such other law.

Municipal boroughs excluded from Schedule I.

(2) From the date specified in a notification under sub-section (1) of section 4 excluding a municipal borough from Schedule I, it shall cease to be a municipal borough and the provisions of the Bombay District Municipal Act, 1901, shall apply to it.

Bom. III of 1901.

Transfer of rights, etc., on inclusion in Schedule I.

6. The property, rights and liabilities of the municipality in a municipal district included or hereafter included in Schedule I shall vest in the municipality of the municipal borough constituted by such inclusion, from the date of such inclusion.

Preliminaries before notification.

7. (1) Not less than three months before the publication of a notification under section 4 [1][the [2][State] Government] shall cause to be published in the [3][*Official Gazette*] in English, and in at least one of the local newspapers (if any) in the vernacular language of the district in which the municipal borough or municipal district is situate, and to be posted up in conspicuous places in such municipal borough or municipal district in such vernacular language, a proclamation announcing that it is proposed to include in or exclude from Schedule I the municipal district or municipal borough, as the case may be, or to alter the limits of the municipal borough in a certain manner, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor in writing to the Collector within two months from the date of the said proclamation; and whenever it is proposed to add to or exclude from a municipal borough any inhabited area, it shall be the duty of the municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

(2) The Collector shall, with all reasonable despatch, forward every objection so submitted to [1][the [2][State] Government].

(3) No such notification as aforesaid shall be issued by [1][the [2][State] Government] unless the objections, if any, so submitted are in its opinion insufficient or invalid.

(2) *Municipalities.*

Incorporation of municipalities.

8. In every municipal borough there shall be a municipality, and every such municipality shall be a body corporate by the name of [4]["the..... Borough Municipality "] and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its Chief Officer.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[4] The words " the.....Borough Municipality " were substituted for the words " the municipality of....." by Bom. 24 of 1936, s. 2, Sch.

(3) Election of Councillors.

Municipalities to consist of elected councillors.

9. *(1)* Every such municipality shall consist of—

(*a*) elected councillors; and

[1]* * * *

Failure to elect.

(2) Any vacancy due to failure to elect the full number of councillors which under this section might be elected and any vacancy due to failure to elect a councillor under section 29 may, notwithstanding anything in this Act, be filled up by nomination by [2][the [3][State] Government].

Continuance of councillors holding office at commencement of Act. Election in case of non-continuance.

(3) Councillors elected or nominated under the Bombay District Municipal Act, 1901, and holding office, in a municipal district included or hereafter included in Schedule I, immediately prior to such inclusion, shall be deemed to have been elected or nominated, as the case may be, under this Act: provided that where [2][the [3][State] Government] has directed that all the councillors shall be elected, councillors nominated under the Bombay District Municipal Act, 1901, shall not be deemed to have been nominated under this Act, and councillors shall be elected under the provisions of this Act in place of such nominated councillors. Bom. III of 1901. Bom. III of 1901.

The [3][State] Government shall determine number of councillors and make rules for regulating elections.

10. *(1)* [2][The [3][State] Government] shall, from time to time, generally or specially for each municipality,—

(*a*) determine the number of councillors:

[4]* * *

(*c*) make rules consistent with this Act prescribing the [5][number and extent of the wards to be constituted in each municipal borough, the number of councillors to be elected by each ward and the number of seats, if any, to be reserved for the representation of women, [6][Scheduled Castes and Scheduled Tribes]], [7]* * *

[8][prescribing the manner in which an order of requisition shall be served under section 198-A;

prescribing the time within which an application for determining the amount of compensation by an arbitrator shall be made under section 198-B; and] regulating generally such elections:

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[1] The clause (*b*) and provisos to the sub-section were deleted by Bom. 9 of 1938, s. 6.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] Clause (*b*) was deleted, by Bom. 9 of 1938, s. 7 (*1*).

[5] These words were substituted for the original by Bom. 41 of 1947, s. 5.

[6] These words were substituted for the words "Muslims, Harijans, backward tribes, Anglo-Indians and Indian Christians" by Bom. 17 of 1950, s. 5 (*1*) (*a*).

[7] The portion beginning with the words "providing for the preparation" and ending with the words "Municipal Election Roll" was deleted by Bom. 35 of 1955, s. 14.

[8] This was inserted by Bom. 35 of 1954, s. 17.

[1][Provided that rules so made shall not provide for the reservation of seats in any ward for the representatives of Scheduled Castes and Scheduled Tribes unless the State Government is of opinion that the reservation of such seats is necessary having regard to the population of such castes or tribes in the municipal borough];

[2][(*d*) Notwithstanding anything contained in clause (*c*), the reservation of seats for women, the Scheduled Castes and the Scheduled Tribes made by rules under the said clause shall cease to have effect on the expiration of the period of ten years from the commencement of the Constitution of India :

Provided that nothing in this clause shall render any person elected to any of such reserved seats ineligible to continue as a councillor during the term of the office for which he or she was validly elected, by reason only of the fact that the reservation of seats has so ceased to have effect;

[3][*Explanation.*—For the purpose of this section,—

(*1*) 'Scheduled Castes' means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Bombay under article 341 of the Constitution of India and until the notification in relation to the State of Bombay is issued under that article means Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936;

(*2*) 'Scheduled Tribes' means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Bombay under article 342 of the Constitution of India.

[4]* * * * * *

(*3*) [5][The [6][State] Government] may from time to time delegate to the Commissioner any of the powers granted to [5][the [6][State] Government] by clause (*c*) of sub-section (*1*) subject to such restrictions or conditions, if any, as [5][the [6][State] Government] may attach to the delegation and such powers shall not be exercised without first receiving the opinion of the municipality concerned.

[7][**11.** (*1*) The electoral roll of the Bombay Legislative Assembly for the time being in force for such part of the constituency of the Assembly as is included in a ward of a municipal borough shall, for the purposes of this Act, be deemed to be the list of voters for such ward. List of voters.

(*2*) The officer designated by the Collector in this behalf in respect of a municipal borough shall maintain a list of voters for each ward of such municipal borough.

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[1] This proviso was substituted for the original by Bom. 17 of 1950, s. 5 (*1*) (*b*).

[2] Clause (*d*) was inserted, *ibid.*, s. 5 (*1*) (*c*).

[3] This explanation was susbstituted for the original, *ibid.*, s. 5 (*1*) (*d*).

[4] Sub-section (*1A*) was deleted, *ibid.*, s. 5.

[5] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[7] Sections 11 and 11A were substituted for section 11 by Bom. 35 of 1955, s. 15.

Explanation.—For the purposes of this section, electoral roll shall mean an electoral roll prepared under the provisions of the Representation of the People Act, 1950. XLIII of 1950.

Persons qualified to vote and be elected.

11A. (*1*) Every person whose name is in the list of voters referred to in section 11 shall, unless disqualified under this Act or any other law for the time being in force, be qualified to vote, and every person whose name is not in such list shall not be qualified to vote, at the election of a member for the ward to which such list pertains.

(*2*) Every person whose name is in the list of voters shall, unless disqualified under this Act or any other law for the time being in force, be qualified to be elected, and every person whose name is not in such list shall not be qualified to be elected, at the election for any ward of the municipal borough.

(*3*) Subject to any disqualification incurred by a person, the list of voters shall be conclusive evidence for the purpose of determining under this section whether the person is qualified or is not qualified to vote or is qualified or is not qualified to be elected, as the case may be, at any election.]

General disqualifications for becoming a Councillor. Vacation of seat. Decision of [1][State] Government in case of disputes.

12. (*1*) No person may become a councillor—

(*a*) who—

[2][(*i*) has been convicted by a court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the State Government may allow in any particular case, has elapsed since his release ; or]

(*ii*) has been removed from office under section 27 and five years have not elapsed from the date [3]* * of such removal,

unless he has, by an order which [4][the [1][State] Government] is hereby empowered to make, if it shall think fit, in this behalf been relieved from the disqualification arising on account of [5][such removal] from office or ;

(*b*) who is an uncertificated bankrupt or an undischarged insolvent or ;

[6][(*ba*) who is of unsound mind and stands so declared by a competent court ; or

(*bb*) who has voluntarily acquired the citizenship of a foreign State or is under any acknowledgment of allegiance or adherence to a foreign State ; or]

(*c*) who is a Judge.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] Sub-clause (*i*) was substituted for the original by Bom. 26 of 1953, s. 18.

[3] The words " of the expiry " were deleted, *ibid.*

[4] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[5] These words were substituted for the words " such sentence or removal " by Bom. 35 of 1954, s. 18 (*1*).

[6] These clauses were substituted by Bom. 35 of 1955, s. 16.

(*2*) No person—

(*a*) who is a subordinate officer or servant of a municipality, or

[1][(*aa*) who fails to pay any arrears of any kind due by him to the Municipality (otherwise than as a trustee) within three months after a special notice in this behalf has been served upon him, or]

(*b*) who, save as hereinafter provided, has directly or indirectly, by himself or his partner any share or interest in any work done by order of a municipality or in any contract or employment with or under or by or on behalf of a municipality, [2][or

(*c*) who has directly or indirectly, by himself or his partner, any share or interest in any transaction of loan of money advanced to, or borrowed from, any officer or servant of the municipality,]

may be a councillor of such municipality.

(*3*) A person shall not be deemed to have incurred disqualification under clause (*b*) of sub-section (*2*) by reason of his—

(*i*) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, or

(*ii*) having a share or interest in any joint-stock company or in any society, registered or deemed to be registered under the Co-operative Societies Act, which shall contract with or be employed by or on behalf of the municipality, or

(*iii*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted, or

(*iv*) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipality, or

(*v*) [3]* * * * * * *

(*vi*) having a share or interest in the occasional sale to the municipality of any article in which he regularly trades, or in the purchase from the municipality of any article, to a value in either case not exceeding in any official year five hundred rupees or such higher amount not exceeding two thousand rupees as the municipality with the sanction of [4][the [5][State] Government] may fix in this behalf, or

(*vii*) having a share or interest in the occasional letting out on hire to the municipality or in the hiring from the municipality of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the municipality with the sanction of [4][the [5][State] Government] may fix in this behalf, or

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[1] Clause (*aa*) was inserted by Bom. 35 of 1954, s. 18 (*2*).

[2] This portion was inserted by Bom. 36 of 1949, s. 3 (*i*).

[3] Clause (*v*) was deleted, *ibid.*, s. 3 (*ii*).

[4] The words "Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*viii*) being a party to any agreement made with the municipality under the provisions of section 91 or of proviso (*a*) to sub-section (*1*) of section 194.

[1]* * * * * * * *

General disqualifications of voters.

[2][13. No person shall vote at any municipal election under this Act, if he—

(*a*) is of unsound mind and stands so declared by a competent court, or

(*b*) has voluntarily acquired the citizenship of a foreign State or is under ackowledgment of allegiance or adherence to a foreign State.

Right to vote.

14. (*1*) No person shall vote at a general election in more than one ward and if a person votes in more than one ward, his vote in all such wards shall be void.

(*2*) No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been entered in the list of voters for that ward more than once, and if he does so vote, all his votes in that ward shall be void.]

Determination of validity of elections.

15. (*1*) If the validity of any election of a councillor is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Court of the district within which the election has been or should have been held, for the determination of such question :

[3]* * * * * * *

(*2*) An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by [4][the [5][State] Government] either specially for the case or for such cases generally ; and such Judge may, after such inquiry as he deems necessary and subject to the provisions of sub-section (*3*), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid ; such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. The decision or order shall be conclusive. V of 1908.

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[1] Sub-sections (*4*) and (*5*) were deleted by Bom. 53 of 1954, s. 6.

[2] Sections 13 and 14 were substituted for the original sections 13 and 14 by Bom. 35 of 1955, s. 17.

[3] The proviso was deleted by Bom. 17 of 1945 read with Bom. 8 of 1950, ss. 5 and 11.

[4] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[1][(*2A*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of councillors elected to represent the same constituency is in question shall be heard by the same Judge; and

(*b*) in which the validity of the election of the same councillor elected to represent the same constituency is in question shall be heard together.

Explanation.—For the purposes of this sub-section a constituency shall mean each ward [2]* * * * * * constituted [2]* * to elect councillors.

V of 1908. (*2B*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.]

Declaration in case of corrupt practice by a candidate.

(*3*) (*a*) The Judge, if satisfied that a candidate has, within the meaning of sub-section (*4*), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

Scrutiny of votes and declaration in other cases.

(*b*) If in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it:

[3][Provided further that after such computation, if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been recorded in favour of the candidate, or candidates, as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.]

What is a corrupt practice.

(*4*) A person shall be deemed to have committed a corrupt practice within the meaning of sub-section (*3*)—

(*i*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any gratification or holds out any promise of individual profit, or holds out any threat of injury to any person, or

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[1] Sub-sections (*2A*) and (*2B*) were inserted by Bom. 14 of 1936, s. 2.
[2] The words " or a public body or association " and the words " or entitled " were deleted by Bom. 35 of 1955, s. 18.
[3] This proviso was added by Bom. 36 of 1949, s. 4 (i).

(*ii*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote [1][or];

[1][(*iii*) who hires or procures, whether on payment or otherwise, any vehicle or vessel for the conveyance of any voter to, or from, any polling station :

Provided that—

(*a*) the hiring of a vehicle or vessel by a candidate for himself or his family or an election agent shall not be deemed to be a corrupt practice under this clause;

(*b*) the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to, or from, any such polling station shall not be deemed to be a corrupt practice under this clause, if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power;

(*c*) the use of any public transport vehicle or vessel or any tram-car or railway carriage by any voter at his own cost for the purpose of going to, or coming from, any such polling station shall not be deemed to be a corrupt practice under this clause;]

[2]* * * * * *

Candidates when deemed to have committed corrupt practice.

and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 1.—For the purposes of this section the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward.

Explanation 2.—The expression "a promise of individual profit"—

(*i*) does not include a promise to vote for or against any particular measure which may come before a municipality for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

Mere irregularities and informalities not to invalidate election.

(*5*) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 10, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.—The expression "error" in this clause does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected.

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[1] The word 'or' and clause (*iii*) were inserted by Bom. 35 of 1954, s. 19.
[2] Clauses (*iii*) and (*iv*) were deleted, by Bom. 38 of 1949, s. 4 (*ii*).

(6) If the Judge sets aside an election under clause (*a*) of sub-section (3), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal borough or district for a term of years not exceeding seven, and the decision of the Judge shall be conclusive : provided however, that such person may, by an order which [1][the [2][State] Government] is hereby empowered to make, if it shall think fit, in that behalf, be at any time relieved from such disqualification : provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made. Disqualification of persons committing corrupt practice.

XLV of 1860.

16. Any person who has been convicted of an offence under section 171-E or 171-F of the Indian Penal Code, or has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall be disqualified for five years from the date of such conviction or disqualification from voting at any municipal election in any municipal borough or district or at any election to a local board constituted under the Bombay Local Boards Act, 1923. Voter disqualified for corrupt practice.

Bom. VI of 1923.

17. The names of all councillors, finally elected to any municipality and the names of the nominated councillors, if any, appointed thereto shall be published, as soon as conveniently may be, in the [3][*Official Gazette*]. Publication of names of councillors in the *Official Gazette*.

[4][17A. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely :— Prohibition of canvassing in or near polling stations.

(a) canvassing for votes ; or

(b) soliciting the vote of any voter ; or

(c) persuading any voter not to vote for any particular candidate ; or

(d) persuading any voter not to vote at the election ; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] Sections 17A to 17I were inserted by Bom. 35 of 1954, s. 20.

Penalty for disorderly conduct in or near polling stations.

17B. (*1*) No person shall, on the date or dates on which a poll is taken at any polling stations,—

(*a*) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or

(*b*) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty, at the polling station.

(*2*) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*3*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(*4*) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (*1*) and may seize any apparatus used for such contravention.

Penalty for misconduct at polling station.

17C. (*1*) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(*3*) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*4*) An offence punishable under sub-section (*3*) shall be cognizable.

Maintenance of secrecy of voting.

17D. (*1*) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election under this Act, shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

Officers, etc., at elections not to act for candidates or to influence voting.

17E. (*1*) No person who is a Returning Officer or a presiding or polling officer at an election under this Act or an officer or clerk appointed by the Returning Officer or the presiding officer to perform any duty in connection with an election under this Act shall, in the conduct or the management of the election, do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(*2*) No such person as aforesaid and no member of a police force shall endeavour,—

(*a*) to persuade any person to give his vote at an election, or

(*b*) to dissuade any person from giving his vote at an election, or

(*c*) to influence the voting of any person at an election in any manner.

(*3*) Any person who contravenes the provisions of sub-section (*1*) or sub-section (*2*) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

Breaches of official duty in connection with elections.

17F. (*1*) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(*2*) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(*3*) The persons to whom this section applies are the Returning Officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of a municipal election roll, the receipt of nominations or withdrawals of candidatures or the recording or counting of votes at an election under this Act and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

Removal of ballot papers from polling station to be an offence.

17G. (*1*) Any person who at any election under this Act fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets in doing of any such act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(*2*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (*1*); such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer :

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(*3*) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer shall be kept by such officer in safe custody.

(*4*) An offence punishable under sub-section (*1*) shall be cognizable.

Other offences and penalties therefor.

17H. (*1*) A person shall be guilty of an offence if at any election under this Act he—

(*a*) fraudulently defaces or fraudulently destroys any nomination paper; or

(*b*) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer;

(*c*) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(*d*) without due authority supplies any ballot paper to any person; or

(*e*) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(*f*) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(*g*) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(*2*) Any person guilty of an offence under this section shall,—

(*a*) if he is a Returning Officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;

(*b*) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(*3*) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election under this Act or part of such election including the counting of votes or to be responsible after such election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(*4*) An offence punishable under clause (*b*) of sub-section (*2*) shall be cognizable.

Prosecution regarding certain offences.

17I. No court shall take cognizance of any offence punishable under section 17E or under section 17F or under clause (*a*) of sub-section (*2*) of section 17H unless there is a complaint made by an order of or under authority of the Collector.]

(4) Appointment of presidents and vice-presidents.

Election of president and vice-president. Continuance of president or vice-president holding office at the commencement of this Act.

18. *(1)* A municipality shall be presided over by a president who shall be elected by the councillors from among their number. There shall be a vice-president similarly elected for each municipality. No salaried [1][servant of the [2][Government] shall be eligible for election as president or vice-president of a municipality and the election of any such person shall be void.

(2) A president or vice-president holding office in a municipal district, included or hereafter included in Schedule I, at the time of such inclusion shall be deemed, to have been elected under this section and shall continue to hold the office of president or vice-president as the case may be until a fresh election has been held under the provisions of this Act.

Term of office of president and vice-president.

19. *(1)* Save as otherwise provided in this Act a president or vice-president, shall hold his office for such term, not less than one year [3][or not less than the residue of the term of office of the municipality, whichever is less] and not exceeding [4][four years], as the municipality shall, previous to the election of the president or vice-president determine, or until the expiry within the said term of his term of office, as councillor, but shall be eligible for re-election :

Provided that the term of office of such president or vice-president shall be deemed to extend to and expire with the date on which his successor is elected.

[5][Provided further that where the term of office of a municipality is extended under this Act to a term not exceeding in the aggregate five years the president and vice-president holding offices immediately before the date with effect from which such term is extended shall continue to hold their respective offices until the date on which the term so extended expires.]

President and Vice-president to continue to carry out certain duties until their successors take over charges.

(2) On the expiry of the term of office of a municipality the president and vice-president shall continue to carry [6][on] the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties :

[7]* * * * * * *

Election of president and vice-president.

[8][**19A.** *(1)* When a new municipality is constituted after a general election the Collector shall call a meeting for the election of a president and vice-president. The meeting shall be called within twenty-five days from the date on which the names of the councillors of the new municipality are published in the *Official Gazette*, under section 17, but shall not be held on a date prior to the date on which the term of office of the retiring councillors prescribed or extended, as the case may be, under sub-section *(1)* of section 25 expires, or on which the municipality is re-established under sub-section *(3)* of section 219 after dissolution or under sub-section *(5)* of section 219 after supersession, as the case may be.

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[1] The words " servant of the Crown " were substituted for the words " servant of Government ", by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 54 of 1954, s. 2 *(1)*.
[4] These words were substituted for the words " Three years " *ibid.*, s. 2 *(2)*. The amendments made by s. 2 of Bom. 54 of 1954 have been given retrospective effect (*vide* s. 3 of Bom. 54 of 1954.)
[5] This proviso was added by Bom. 35 of 1954, s. 21.
[6] The word " on " was substituted for the word " out " by Bom. 19 of 1935, s. 2 *(1)* *(a)*.
[7] The proviso and sub-section *(3)* were deleted by Bom. 8 of 1939, s. 3 *(b)* *(i)* and *(ii)*.
[8] Section 19A was inserted, *ibid.*, s. 3 *(c)*.

[1][(2) The meeting called under sub-section (1) shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The Collector or such officer shall, when presiding over such meeting, have the same powers as the President of a municipality when presiding over a meeting of the municipality has, but shall not have the right to vote :

Provided that notwithstanding anything contained in section 35, the Collector or the officer presiding over such meeting may, for reasons which in his opinion are sufficient, refuse to adjourn such meeting.

(3) No business other than the election of the President and the Vice-President shall be transacted at such meeting.

(4) If in the election of the President or the Vice-President there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the Collector or the officer presiding in such manner as he may determine.]

Resignation of president and vice-president.

20. A president may resign his office by tendering his resignation in writing to the municipality ; and such resignation shall take effect on its acceptance by the municipality. Such acceptance shall be published in the [2][*Official Gazette*]. A vice-president may resign his office by tendering his resignation in writing to the president.

Liability of president and vice-president to removal.

[3][**21.** (1)] A president or vice-president shall be removable from his office as such president or vice-president by the municipality by a resolution passed to that effect, provided that three-fourths of the whole number of the councillors of the municipality vote in favour of such resolution and provided, further, that before such resolution is passed the president or vice-president is given a reasonable opportunity of showing cause why such resolution should not be passed.

[4][(2) A President or Vice-President shall also be removable from his office as such President or Vice-President by the State Government for misconduct, or neglect of, or incapacity to perform his duty and the President or Vice-President so removed shall not be eligible for re-election as a President or Vice-President during the remainder of the term of office of the municipality.]

Consequences of absence of president or vice-president without leave.

22. (1) Every president who for a period exceeding three months and every vice-president who for a period exceeding one month, shall absent himself from the municipal borough in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted by the municipality.

Limit to grant of leave, and arrangement pending absence of vice-president.

(2) Leave under sub-section (1) shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section, a councillor shall be elected by the councillors from among their number to perform all the duties and exercise all the powers of the vice-president, during the period, for which such leave is granted.

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[1] Sub-sections (2), (3) and (4) were substituted for the original by Bom. 40 of 1950, s. 6.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[3] Section 21 was re-numbered as section 21 (1) by Bom. 40 of 1950, s. 7.

[4] Sub-section (2) was added, *ibid.*

Vacancies in office of president and vice-president to be filled up.

23. (*1*) In the event of the non-acceptance of office death, resignation or removal from office of a president or of a vice-president or of his election being void, or of his becoming incapable of acting in such office or having ceased to be a president or a vice-president under sub-section (*1*) of section 22 or a councillor under subsection (*1*) of section 28, previous to the expiry of his term of office as president or vice-president the vacancy shall be filled up [1][within twenty-five days from the occurrence of the vacancy] by the election of some other councillor thereto.

[2][(*1A*) In the event of the expiry of the term of office of the president or vice-president determined by the municipality under sub-section (*1*) of section 19, unless section 19A applies, a new president or vice-president as the case may be shall be elected within twenty-five days from the date of such expiry.]

[3][(*2*) The provisions of section 19A shall be applicable, so far as may be, to the calling of a meeting and the procedure to be followed at such meeting for the election of a president under sub-section (*1*) [4][or (*1A*)].]

Penalty for refusal to hand over charge to new President or Vice-President.

[5][**23A.** (*1*) On the election of a new President or Vice-President, the retiring President or Vice-President in whose place the new President or Vice-President has been elected shall hand over charge of his office to such new President or Vice-President, as the case may be.

(*2*) If the retiring President or Vice-President fails or refuses to hand over charge of his office as required under sub-section (*1*) the State Government or any authority empowered by the State Government in this behalf may, by order in writing, direct the President or the Vice-President, as the case may be, to forthwith hand over charge of his office and all papers and property of the municipality, if any, in his possession as such President or Vice-President, to the new President or Vice-President.

(*3*) If the retiring President or Vice-President to whom a direction has been issued under sub-section (*2*) does not comply with such direction, he shall, on conviction, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to Rs. 500 or with both].

23A. [*Collector to call meeting for election of president or vice-president in certain cases.*] *Deleted by Bom. 8 of 1939, s. 3 (e).*

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[1] These words were inserted by Bom. 19 of 1935, s. 3 (*1*).

[2] This sub-section was inserted by Bom. I of 1947, s. 6 (*a*).

[3] Sub-section (*2*) of section 23 was substituted for the original by Bom. 8 of 1939, s. 3 (*d*).

[4] This word, brackets, figure and letter were added by Bom. 1 of 1947, s. 6 (*b*).

[5] Section 23A was inserted by Bom. 40 of 1950, s. 8.

(5) Term of office of councillors.

Term of office of councillors holding office prior to commencement of Act; and of councillors then elected.

24. (*1*) Save as otherwise provided in this Act Councillors deemed to have been elected or nominated under sub-section (*3*) of section 9 shall continue to hold office for the term for which they were elected or nominated under the Bombay District Municipal Act, 1901. Councillors elected under the said sub-section shall hold office for the same period as councillors deemed to have been elected as aforesaid. Bom. III of 1901.

[1][Provided that—

(*a*) [2][the [3][State] Government] may, by a notification in the [4][*Official Gazette*] and subject to the other provisions of this Act, extend the term of office of any municipality for a period up to a date not later than the thirty-first day of December [5][1928.];

(*b*) any notification issued under proviso (*a*) after the expiry of the term of office of any municipality constituted under the Bombay District Municipal Act, 1901, and before the thirty-first day of May 1927 shall be deemed to have been issued and to have had effect as from the date of expiry of the term of office of such municipality; and any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, by any such municipality so far as is not inconsistent with the provisions of this Act shall be deemed to be valid and to have been made, issued or imposed under this Act and shall continue in force unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under this Act.]. Bom. III of 1910. Bom. III of 1901.

(*2*) The provisions of clause (*b*) of sub-section (*2*) of section 25 shall apply to such councillors.

Validation of acts of expired Municipalities.

[6][**24A.** Any municipality of a municipal borough included in Schedule I which has not been constituted in accordance with the provisions of this Act and the rules made thereunder shall, save where it is otherwise provided in this Act, be deemed not to have been duly constituted and its members, both elected and nominated, shall be deemed not to have been duly elected and nominated.]

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[1] This proviso was added by Bom. 1 of 1927, s.3.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[5] These figures were substituted for the original figures "1927" by Bom. 12 of 1927, s. 2.

[6] Section 24A was inserted by Bom. 1 of 1927, s. 4.

†25. (*1*) Councillors nominated or elected at a general election under this Act, shall, save as otherwise provided in this Act, hold office for a term of [1][four] years, extensible by order of [2][the [3][State] Government] to a term not exceeding in the aggregate [4][five] years, if on any occasion [2][the [3][State] Government] shall think fit, for reasons which shall be notified together with the order in the [5][*Official Gazette*] so to extend the same : Term of office of councillors after general election.

Provided that before such order is made [2][the [3][State] Government] shall invite and consider objections, if any, from the voters entitled to vote at the municipal election in the municipal borough concerned.

(*2*) (*a*) The term of office of such councillors shall be deemed to commence on the date of the first general meeting which shall be held after such election and after the expiry of the term of the outgoing councillors hereinbefore provided and at which a quorum shall be present ; and

(*b*) the term of office of the outgoing councillors shall be deemed to extend to and expire with the day before the date of such meeting.

26. Any councillor may resign his office by giving notice in writing to that effect to the president. Resignation of councillors.

27. [2][The [3][State] Government] if it thinks fit, on the recommendation of the municipality supported by at least two-thirds of the whole number of councillors may remove any councillor elected or nominated under this Act, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct or has become incapable of performing his duties as a councillor : Liability of councillors to removal from office.

Provided that no resolution recommending the removal of any councillor shall be passed by the municipality unless the councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

28. (*1*) If any councillor during the term for which he has been elected or nominated— Disabilities from continuing a councillor.

(*a*) becomes subject to any disqualifications specified in section 12, or

(*b*) acts as a councillor in any matter—

(*i*) in which he has directly or indirectly, by himself or his partner, any such share or interest as is described in clause (*i*), (*ii*) (*iii*), (*vi*) or (*viii*) of sub-section (*3*) of section 12, whatever may be the value of such share of interest, or

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[1] This word was substituted for the word "three" by Bom. 35 of 1954, s. 22.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] This word was substituted for the word "four" by Bom. 35 of 1954 s. 22.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

†Section 6 of Bom. 17 of 1950, reads as follows :—

Bom. XVIII of 1925. 6. During the period from the commencement of this Act to 31st March 1952, section 25 of the Bombay Municipal Boroughs Act, 1925, shall have effect as if for the words "four years", the words "five years" had been substituted. Temporary amendment of section 25 of Bom. XVIII of 1925.

(*ii*) in which he is professionally interested on behalf of a principal or other person, or

[1]* * * * *

[2][(*bb*) is professionally interested or engaged in any case for or against the municipality, or]

(*c*) depart beyond the limits of the Presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) not being a president or vice-president or a salaried [3][servant of the [4][Government]] absent himself during four successive months from the meetings of the municipality, except with the leave of the municipality,

(*e*) [5]* * * * * * *

he shall [6][subject to the provisions of sub-section (*2*)] be disabled from continuing to be a councillor and his office shall become vacant.

[7][*Explanation.*—For the purposes of clause (*d*) when a councillor applies for leave of absence, leave of the municipality shall be presumed to have been granted unless it is refused within a period of ninety days from the date of his application.]

[8][(*2*) In every case, the authority competent to decide whether a vacancy has arisen shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion. Until the Collector decides that the vacancy has arisen, the councillor shall not be disabled under sub-section (*1*) from continuing to be a councillor. [9][Any person aggrieved by the decision of the Collector may, within a period of fifteen days from the date of such decision, appeal] to the [10][State] Government and the orders passed by the [10][State] Government in such appeal shall be final:

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard].

Casual vacancies how to be filled up.

29. Where a vacancy occurs through the non-acceptance of office by a person elected or appointed to be a councillor, or through such person being disqualified for becoming a councillor, or through any election being set aside under the provisions of sub-section (*2*) of section 15, or through the death, resignation removal or disability of a councillor previous to the expiry of his term of office the vacancy shall be filled up, as soon as it conveniently may be, by the election

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[1] Sub-clause (*iii*) was deleted by Bom. 36 of 1949, s. 6 (*i*).

[2] This clause was inserted, *ibid.*

[3] The words " servant of the Crown " were substituted for the words " servant of the Government" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[5] Clause (*e*) was deleted by Bom. 35 of 1954, s. 23.

[6] These words, brackets and figure were inserted by Bom. 8 of 1939, s. 3 (*f*) (*i*).

[7] This Explanation was added by Bom. 36 of 1949, s. 6 (*ii*).

[8] This sub-section was substituted for the original by Bom. 8 of 1939, s. 3 (*f*) (*ii*).

[9] These words were substituted for the words "An appeal shall lie against every such decision of the Collector " by Bom. 36 of 1949, s. 6 (*iii*).

[10] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

or nomination as the case may be of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or nominated would have held it if the vacancy had not occurred. [1][Provided that no election shall be held to fill up a vacancy occurring within four months of the date on which the term of the municipality expires.]

[2][A councillor [3]* * * * * * * whose office has become vacant under section 28 shall, if his disability has ceased, be eligible for re-election.]

(6) Municipal Government. Functions of President and Vice-President.

Municipal government vests in the municipality.

30. (*1*) Except as in this Act otherwise expressly provided, the municipal government of a municipal borough vests in the municipality.

Executive power vests in the Chief Officer.

(*2*) The executive power for the purpose of carrying out the provisions of this Act vests in the Chief Officer appointed under section 33, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the municipality or of the standing committee and subject also to all other restrictions limitations and conditions imposed by this Act and the rules made thereunder.

Function of president.

31. It shall be the duty of the president of a municipality—

(*a*) to preside, unless prevented by reasonable cause, at all meetings of the municipality, and subject to the provisions of the rules for the time being in force under clause (*a*) of section 58 to regulate the conduct of business at such meetings ;

(*b*) to watch over the financial and executive administration of the municipality and to perform such executive functions as may be allotted to him by or under this Act ;

(*c*) to exercise supervision and control over the acts and proceedings of all officers and servants of the municipality in matters of executive administration and in matters concerning the accounts and records of the municipality ; and, subject to the rules of the municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances ;

(*d*) the president of a municipality may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the municipality, and the immediate execution or doing of which is, in his opinion necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund :

Provided that—

(*a*) he shall not act under this section in contravention of any order of the municipality prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and the reason therefor to the standing committee at its next meeting.

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[1] This proviso was added by Bom. 19 of 1935, s. 5.

[2] This paragraph was substituted for the original by Bom. 36 of 1949, s. 7.

[3] The words, brackets and figures " whose seat has been deemed vacant under sub-section (*4*) of section 12 or " have been deleted, by Bom. 53 of 1954, s. 7.

32. It shall be the duty of the vice-president of a municipality— Functions of vice-presidents.

(*a*) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the municipality and he shall when so presiding exercise the same authority as is vested in the president under clause (*a*) of section 31 ;

(*b*) to exercise such of the powers and perform such of the duties of the president as the president may from time to time depute to him ; and

(*c*) pending the election of a president, or during the absence of the president to exercise the powers and perform the duties of the president.

(7) Appointment and powers of chief and other municipal officers.

[1][**33.** (*1*) There shall be a chief officer in every municipal borough who shall be a graduate of a recognized university or a qualified engineer appointed by the municipality : Appointment of Chief Officer : Conditions of tenure.

[2][Provided that a person who is not a graduate of a recognized University or a qualified engineer may be appointed as a Chief Officer in the following cases :—

(*i*) if such appointment is temporary or

(*ii*) if the municipal borough has an annual income of less than two lacs of rupees :

Provided further that—

(*a*) in the case falling under clause (*i*), the previous sanction of the Director of Local Authorities shall be obtained if the temporary period of appointment exceeds two months at a time ;

(*b*) in the case falling under clause (*ii*), the previous sanction of the State Government shall be obtained.

(*1A*) Nothing in sub-section (*1*) shall apply in respect of a Chief Officer permanently appointed as Chief Officer under the Bombay District Municipal Act, 1901, before the coming into force of this Act.] Bom. III of 1901.

(*2*) No Chief Officer shall be removed from office, reduced or suspended unless by the votes of at least two-thirds of the whole number of councillors ; and no such officers shall be punishable with fine.]

34. (*1*) The Chief Officer shall— Powers and duties of Chief Officer.

(*a*) subject to the general control of the president, watch over the financial and executive administration of the municipality and perform all the duties and exercise all the powers specifically imposed or conferred upon him by, or delegated to him under this Act ;

(*b*) subject to the provisions of sub-section (*4*), exercise supervision and control over the acts and proceedings of all officers and servants of the municipality as regards appointments referred to in clause (*c*) in matters of executive administration and in matters concerning the accounts and records of the municipality ; and subject further to the rules of the municipality for the time being in force, dispose of all questions relating to the service of the officer and servants and their pay, privileges, leave and allowances ;

[1] This section was substituted for the original section by Bom. I of 1926, s. 3, which takes effect from the date when the original Act came into operation.

[2] This portion was substituted for the provisoes by Bom. 53 of 1954, s. 8.

(*c*) subject to the provisions of sub-section (*4*) appoint to any post the monthly salary for which as fixed by rules made under clause (*c*) of section 58 does not exceed Rs. 50 and to any other post the appointment to which has not been otherwise provided for by such rules ;

(*d*) with the permission of the President furnish to the Collector, or such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality ;

(*e*) subject to the provisions of this Act and of the bye-laws for the time being in force thereunder, grant, give and issue, under his signature all licences and permissions which may be granted or given by the municipality or the standing committee under this Act, other than licences for markets or slaughter-houses ;

(*f*) receive and recover and credit to the municipal fund all fees payable for licences and permissions granted or given by him under the powers aforesaid ;

(*g*) subject to the orders of the president, or of the standing committee or of the municipality, as the case may be, take prompt steps to remove any irregularity pointed out by the auditor appointed under section 210 ;

(*h*) report to the President and the standing committee all cases of fraud, embezzlement, theft, or loss of municipal money and property.

(*2*) The Chief Officer may—

(*a*) subject to the provisions of sub-section (*4*) fine, reduce, suspend or dismiss any municipal servant whose salary does not exceed Rs. 30 and subject further to the provisions of the rules for the time being in force, any other municipal officer or servant, not being the health officer, engineer or auditor of the municipality :

Provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal either to the standing committee or, if the rules for the time being in force so provide, to the municipality ;

(*b*) subject to the provisions of this Act and of the by-laws for the time being in force thereunder, at his discretion suspend, withhold or withdraw any licence, in any case in which he is empowered to grant or give a licence and in which the municipality or the standing committee r ay suspend, withhold or withdraw such licence ;

(*c*) with the sanction of the standing committee, delegate any of his powers or duties to any municipal officer or servant :

Provided that such delegation shall be subject to such limitations, if any, as may be prescribed by the standing committee, and also to control and revision by the Chief Officer.

(*3*) The Chief Officer shall at any time supply any return, statement, account or report or a copy of any document in his charge, called for by the municipality or the standing committee and shall comply with any orders passed by the municipality of the standing committee thereon.

(*4*) The powers conferred on the municipality by or under any of the provisions of this Act to appoint, grant leave of absence to, punish or dismiss any master, teacher or other person employed in a primary or other school vested in or maintained by the municipality, or employed in any educational institution aided by the municipality, shall not be exercised by the Chief Officer.

(*5*) (*a*) A municipality may appoint a health officer and an engineer or any one or more of such officers, whether temporarily or permanently. Appointment of health officer and engineer.

(*b*) No such officer shall be removable from office, reduced or suspended unless by the assent of at least two-thirds of the whole number of councillors, and no such officer shall be punishable with fine.

[1][**34A.** (*1*) Notwithstanding anything contained in section 33 and sub-section (*5*) of section 34, it shall be lawful for [2][the [3][State] Government] on the recommendation of any municipality supported by a resolution passed by a majority of the councillors present at a special general meeting called for the purpose to make in its discretion an order vetoing the continuance in office of any person holding the appointment of a chief officer, a health officer or an engineer : Power of [3][State] Government to require the removal of a chief officer, health officer or an engineer.

Provided that—

(*a*) notwithstanding anything contained in sub-section (*7*) of section 35, no resolution shall be passed by such meeting unless a quorum shall have been present throughout ; and

(*b*) no order shall be made under this section unless an inquiry has been made into the matter by such person and in such manner as [2][the [3][State] Government] may direct and unless the person affected by the order has been given a reasonable opportunity at the inquiry of explaining the allegations made against him.

(*2*) The tenure of office by any person whose continuance in office is vetoed under sub-section (*1*) shall cease and determine on and from such date as may be appointed by [2][the [3][State] Government], in that behalf].

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[1] This section was inserted by Bom. 3 of 1930, s. 2.
[2] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

CHAPTER III.

CONDUCT OF BUSINESS.

(*1*) *Municipal Meetings.*

35. The following provisions shall be observed with respect to the meetings of a municipality :— Provisions in regard to meetings of a municipality.

(*1*) There shall be held four ordinary general meetings in each year for the disposal of general business, on or about the tenth day of the months of January April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. It shall be the duty of the president to fix the dates for all ordinary general meetings. Ordinary general meetings.

(*2*) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the councillors and for a date not more than fifteen days after the presentation of such request, call a special general meeting. If the president fails to call a special general meeting as provided in this clause [1][the Vice-President shall] call such meeting for a day not more than thirty days after the presentation of such request. Special general meetings.

(*3*) Seven clear days, notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat shall be served upon the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal borough and also published in a local vernacular newspaper having a large circulation if such exists. The said notice shall include any motion or proposition whereof a councillor shall have given written notice, not less than ten clear days previous to the meeting, of his intention to bring forward thereat, and in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting. Notice of meetings.

(*4*) Every meeting of a municipality shall, except for special reasons to be mentioned in the notice convening the meeting, be held in the buildings used as a municipal office by such municipality. Meetings to be held at municipal office.

(*5*) Every meeting shall, in the absence of both the president and vice-president be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (*a*) of section 31. Absence of the president and the vice-president.

(*6*) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipality such as should be held in private : Meeting must ordinarily be open to the public.

Provided that the said authority may at any time cause any person to be removed who interrupts the proceedings :

Provided further that the presiding authority may cause to be removed from the meeting any councillor who does not obey his ruling.

(*7*) If less than one-third of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof the presiding authority shall after waiting for not more than 30 minutes adjourn the meeting to such hour on the following or some other future day as he may reasonably fix a notice of such adjournment shall be fixed up in the municipal office, and the Adjournment in absence of quorum.

[1] These words were substituted for the words "the vice-president may" by Bom. 40 of 1950, s. 9.

business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

Business to be transacted at meetings and order of business.

(*8*) Except with the permission of the presiding authority which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been entered in the notice convening such meeting or, in the case of a special general meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

Minutes of proceedings.

(*9*) In every municipality there shall be kept in the vernacular language and if any councillor so desire, in English also, minutes of the names of the councillors and of the Government officers, if any, present under the provisions of sub-section (*14*), and of the proceedings at each general meeting, in a book to be provided for this purpose ; such minutes shall be signed, as soon as practicable, by the presiding authority and shall at all reasonable times be open to inspection by any inhabitant of the municipal borough.

Questions decided by majority of votes.

(*10*) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (*a*) of section 58.

Adjournments.

(*11*) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time to a later hour on the same day or to any other day ; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

A notice of such adjournment posted in the Municipal office shall be deemed sufficient notice of the adjournment meeting.

Modification and cancellation of resolutions.

(*12*) No resolution of a municipality shall be modified or cancelled wthin three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of councillors and passed at a general meeting, whereof notice shall have been given fulfilling the requirements of sub-section (*3*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

Notice of certain business to be given to the Government, Executive Engineer or Educational Inspector.

(*13*) Except for reasons which the presiding authority deems urgent, no business relating to any work which is being executed for the municipality by a Government Executive Engineer or to any educational matter, shall be transacted at any meeting of a municipality unless, at least fifteen days previous to such meeting a letter has been addressed to the said Executive Engineer or to the Deputy Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

(*14*) (*a*) The members of the Sanitary Board, and the Executive Engineer, Deputy Educational Inspector and the Assistant Director of Public Health, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a municipality within the district, shall have the right of being present at any meeting of such municipality; with the consent of the municipality, each of them may take part at such meeting in the discussion or consideration of any question on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such municipality: Certain Government officers may attend and may be required to attend meetings.

Provided that the said officers shall not, unless they are members of the municipality be entitled to vote upon any such question.

(*b*) If it shall appear to a municipality that the presence of the Executive Engineer, Deputy Educational Inspector, Assistant Director of Public Health or Civil Surgeon of or in the district is desirable for the purpose aforesaid at any meeting of such municipality, it shall be competent to such municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat; and the said officer unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting:

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative instead of appearing thereat in person.

36. The Chief Officer shall be present at every meeting of the municipality, and may with the permission of the president or of the municipality make an explanation or a statement of facts in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at such meeting. The Chief Officer to be present at every meeting of the municipality but not to vote upon or make any proposition.

(2) Committees.

37. (*1*) In every municipality there shall be a committee called the standing committee consisting of such number of councillors not being more than twelve nor less than six, as the municipality may determine and elected by the municipality in accordance with rules framed under section 58, clause (*a*). The members so elected shall hold office for a period of one year. Standing committee.

(*2*) The standing committee shall exercise the functions allotted to it under this Act and subject to any limitations prescribed by the municipality especially in this behalf or generally by rules made under clause (*a*) of section 58, and to the provisions of section 34, [1][37A] and 38, shall exercise all the powers of the municipality. Powers of standing committees.

[2][**37A.** (*1*) In every municipality notified by [3][the Provincial Government] in this behalf there shall be a committee called the Pilgrim Committee consisting [4][of four councillors of whom one shall be the President of the municipality and the other three shall be elected in accordance with rules made under clause (*a*) of section 58 and of two persons appointed by the Provincial Government, both of whom may be salaried servants of the Crown]. Pilgrim Committee.

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[1] These figures and letter were inserted by Bom. 4 of 1930, s. 4.

[2] This section was inserted, *ibid.*

[3] The words "the Provincial Government", were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] These words, figures, letter and brackets were substituted for the original by Bom. 9 of 1938, s. 8.

(*2*) The members of the Pilgrim Committee shall hold office for the duration of the municipality and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section.

In the case of supersession of the municipality or of the Pilgrim Committee, a new Pilgrim Committee shall be constituted by the Commissioner. Such Committee shall consist of six persons nominated by the Commissioner and shall continue until the municipality is re-established, and a new Pilgrim Committee is constituted in accordance with the provisions of this section, or, in case of supersession of the Pilgrim Committee, until the Pilgrim Committee is re-established.

(*3*) The Pilgrim Committee shall manage and administer the pilgrim fund established under proviso (*c*) to section 65 and shall exercise the powers and perform the duties of the municipality in respect of the said fund [1][and of works constructed or maintained out of the said fund and shall exercise such other powers and perform such other duties as may be allotted to it by the municipality] subject to such limitations and restrictions as may be prescribed by the municipality by rules made in this behalf under clause (*aa*) of section 58.

(*4*) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(*5*) In the event of the death, resignation, disqualification, disability or removal of a nominated member previous to the expiry of his term of office, the vacancy shall be filled up by the appointment of a person thereto who shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred.

(*6*) Section 45 shall not apply to the Pilgrim Committee ; provided that the municipality shall have power, at any time, to call for any extract from any proceedings of the Pilgrim Committee and for any return, statement of account or report concerning or connected with any matter with which the Pilgrim Committee deals and every such requisition shall, without unreasonable delay, be complied with by the Pilgrim Committee.

(*7*) The provisions of sections 210, 211 and 212 shall, so far as may be, apply to the Pilgrim Fund Account and the Pilgrim Committee shall, with respect to the preparation and submission to the municipality of its annual budget, follow the following procedure, namely :—

"The Pilgrim Committee shall in sufficient time submit its annual budget and all alterations therein to the municipality for consideration, and, if the municipality agree to it, for its incorporation in the general municipal budget. If the municipality do not agree to the budget as framed by the Pilgrim Committee, they shall return it to the Pilgrim Committee for reconsideration, either in whole or in part, together with any alterations, which they may recommend, and if the Pilgrim Committee agrees to those alterations, the budget so altered shall be incorporated in the general municipal budget. If the municipality and the Pilgrim Committee fail to reach an agreement, the budget with a statement of the points in disputes, shall be referred by the municipality to the Commissioner, whose decision on such points shall be final."

(*8*) The provisions of sections 213, 214, 215, 218 and 219 shall apply to a Pilgrim Committee and in their application to a Pilgrim Committee the said sections shall be construed so far as may be, as if for the word "municipality" occurring in the said sections the words "Pilgrim Committee" were substituted.]

[1] These words were inserted by Bom. 19 of 1935, s. 6.

Other executive committees.

38. (*1*) Notwithstanding anything contained in section 37(*2*) other committees consisting of such number of councillors as the municipality may decide, may be appointed to exercise the powers and perform the duties of the municipality in respect of any purpose [1][not being, where a Pilgrim Com ittee is appointed, powers or duties referred to in section 37A]. The standing committee shall not exercise any powers or perform any duties which such committee has been appointed to exercise or perform.

(*2*) The members of such committees shall be elected by the municipality in accordance with the rules framed under clause (*a*) of section 58 and such members shall hold office for a period of one year.

Consultative committees.

39. A municipality may from time to time appoint such other committees consisting of such councillors as it thinks fit, and may refer to such committees for inquiry and report or for opinion such special subjects relating to the purposes of this Act as the municipality shall think fit, and may at any time discontinue or alter the constitution of any such committee. The municipality may direct that the report of any such committee shall be made to the standing committee, or to a committee appointed under section 38, instead of to the municipality.

When persons other than councillors may serve on committees.

40. Notwithstanding anything contained in this Act, it shall be lawful for a municipality from time to time by a resolution supported by not less than one-half of the whole number of councillors, to elect as members of any committee appointed under section 38 or 39 any person of either sex, who is not a councillor but who in the opinion of such municipality possesses special qualifications for serving on such committee [2][or who represent any authority or interest] ; provided that the number of persons so elected on any committee shall not exceed one-third of the total number of the members of such committee.

Duties, etc., of such persons.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable so far as may be to such persons.

Casual vacancies; re-eligibility.

41. A vacancy occurring in a standing committee or in a committee appointed under section 38 shall, as soon as possible, and a vacancy occurring in any other committee may, be filled up by the election of a member thereto subject to the same provisions as those under which the member whose place is to be filled up was elected. A person elected under this section shall hold office so long only as the person in whose place he is elected would have held it if the vacancy had not occurred. No person shall be ineligible at any time for election as a member of any such committee on the ground that he has previously been a member of that committee.

Ex-officio and appointed chairman.

42. (*1*) The president or vice-president, if elected a member of any committee, shall be *ex-officio* chairmant hereof :

Non-attendance of chairman.

[3][Provided that in the case of a Pilgrim Committee the President shall be *ex-officio* Chairman thereof.]

(*2*) A municipality may appoint a chairman for a committee of which there is no *ex-officio* chairman.

(*3*) A committee of which there is an *ex-officio* chairman or a chairman appointed by the municipality, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting.

(*4*) A committee, of which there is no *ex-officio* chairman or chairman appointed by the municipality, shall appoint from time to time a chairman from the members of such committee.

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[1] These words, figures and letters were inserted by Bom. 4 of 1930, s. 4.
[2] These words were inserted by Bom. 26 of 1953, s. 19.
[3] This proviso was added by Bom. 4 of 1930, s. 4.

Procedure at meetings.

43. (*1*) The provisions of sub-sections (*4*), (*9*), (*10*) and (*14*) of section 35 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of municipality contained in those provisions, and as if for the word " municipality " where it occurs in the proviso to clause (*a*) of sub-section (*14*) of section 35, there was substituted the word " committee."

If the chairman of any committee has been absent from the municipal borough for a period exceeding fifteen days, the president or vice-president may, in his absence, call a meeting thereof:

Provided that, notwithstanding anything to the contrary contained in sub-section (*9*) of section 35, a committee may record its proceedings either in English or in the vernacular language, as it may think fit.

Meeting and adjournment of committees.

(*2*) A committee may meet and adjourn as it thinks proper; but the chairman of a committee may whenever he thinks fit, and shall, upon the written request of the president of the municipality or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

Quorum.

(*3*) No business shall be transacted at any meeting of a committee unless more than one-third of the members of the committee be present thereat.

Procedure by circular.

44. (*1*) Notwithstanding anything contained in section 43 the chairman of a committee may, instead of convening a meeting, circulate a written proposition of his own or of any other member of the committee or of any executive officer of the municipality for the observations and votes of the members of the committee.

Propositions when to be sent to Government officers for remarks.

(*2*) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (*13*) of section 35, shall obtain thereupon the remarks, if any, which any Government officer whose presence the municipality would be entitled to require under the provisions of clause (*b*) of sub section (*14*) of section 35, desires to record.

Decisions how to be taken on propositions circulated.

(*3*) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition.

And how to be recorded.

(*4*) Every decision arrived at by a committee under this section shall be recorded in the minute book.

Subordination of committees to municipality.

45. (*1*) A committee shall conform to any instructions that may from time to time be given to it by the municipality; the municipality may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorized or directed to deal; every such requisition shall, without unreasonable delay, be complied with by the committee so called upon.

(*2*) Every order passed by a standing committee or by a committee appointed under section 38, other than orders under sub-section (*3*) of section 81, shall be subject to such revision and open to such appeal as may be required or allowed in respect thereof by any rules of the municipality for the time being in force under section 58.

Powers, duties and functions may be delegated to officers whose expenses may be paid.

46. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the municipality may be delegated in accordance with rules to be made by the municipality in this behalf, to the president or to the vice-president or to the chairman of the school or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on the Chief Officer by this Act or on any committee by or under section 37, [1][37A] or 38, and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein.

(3) Joint transactions with other bodies.

Joint committees of local bodies. Joint levy of octroi.

47. *(1)* A municipality may from time to time—

(a) join with any other municipality or with any local board, cantonment authority, sanitary board, [2][sanitary committee, panchayat] or committee appointed for a notified area or with any combination or such municipalities, boards, [3][authorities, committees or panchayats]—

(i) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee; and

(ii) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work, and any power which might be exercised by any of such bodies; and

(iii) in framing and modifying rules for regulating the proceedings of any such committee in respect of the purpose for which the committee is appointed; and

(b) enter, subject to the sanction of [4][the Provincial Government], into an agreement with a municipality, cantonment authority, board, [5][panchayat], committee or combination as aforesaid for the levy of octroi duty and tolls whereby the octroi duties and tolls respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

[6][*(1A)* Where a municipality has requested the concurrence of any other local authority under the provisions of sub-section *(1)* in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit, requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid; and such other local authority shall comply with such orders.]

(2) If any difference of opinion arises between bodies having joined or entered into an agreement for any purpose under this section, the decision thereupon of [4][the Provincial Government] or of such officer as it appoints in this behalf, shall be final:

[7][Provided that if one of the bodies concerned is a cantonment authority, any such decision shall be subject to the concurrence of the Central Government].

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[1] These figures and letters were inserted by Bom. 4 of 1930, s. 4.
[2] These words were substituted for the words "sanitary committee" by Bom. 36 of 1949, s. 8 (*i*).
[3] These words were substituted for the words "authorities or committees", *ibid.*
[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[5] This word was inserted by Bom. 36 of 1949, s. 8 (*ii*).
[6] This sub-section was inserted by Bom. 14 of 1934, s. 4.
[7] This proviso was inserted by the Adaptation of Indian Laws Order in Council.

(4) Contracts.

Power of municipality to sell, lease and contract.

48. (*1*) A municipality shall be competent, subject to the restriction contained in sub-section (*2*), to lease, sell or otherwise transfer any moveable or immovable property which may, for the purposes of this Act, have become vested in or been acquired by it; and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as it may consider necessary or expedient in order to carry into effect the said provisions and purposes.

(*2*) In the case of every lease or sale of land under sub-section (*1*) of section 114 and of a lease of immovable property for a term exceeding seven years and of every sale or other transfer of such property, the provious sanction of the Commissioner is required.

Sanction by resolution at general meeting requisite to validity of certain contracts.

(*3*) In the case—

(*a*) of a lease for a period exceeding one year or of a sale or other transfer or contract for the purchase of any immovable property;

(*b*) of every contract which will involve expenditure not covered by a budget grant;

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract;

the sanction of the municipality by a resolution passed at a general meeting is required.

Execution of contracts on behelf of municipality.

(*4*) In a municipality—

(*a*) every contract under or for any purpose of this Act shall be made on behalf of the municipality by the Chief Officer;

(*b*) no such contract for ny purpose which the Chief Officer is not empowered by this Act to carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(*c*) no contract which will involve an expenditure exceeding three hundred rupees shall be made by the Chief Officer unless otherwise authorized in this behalf by the municipality except with the approval or sanction of the standing committee;

(*d*) every contract made by the Chief Officer involving an expenditnre exceeding two hundred rupees and not exceeding three hundred rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee;

(*e*) the foregoing provisions of this section shall apply to every variation or discharge of a contract to the same extent as to an original contract.

(*5*) No contract shall be binding on a municipality unless the requirements of this section have been complied with.

Mode of executing contracts.

49. (*1*) Every contract entered into by a Chief Officer on behalf of a municipality shall be entered into in such manner and form as would bind such Chief Officer if such contract were on his own behalf, and may in the like manner and form be varied or discharged:

Provided that—

(*a*) where any such contract, if entered into by a Chief Officer, would require to be under seal, the same shall be sealed with the common seal of the municipality;

(*b*) every contract for the execution of any work for the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees, shall be in writing, and shall be sealed with the common seal of the municipality and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(*2*) The common seal of the municipality shall not be affixed to any contract or other instrument except in the presence of two members of the standing committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(*3*) A contract not executed in the manner provided in this section shall not be binding on the municipality.

Tenders to be invited for contracts involving expenditure exceeding Rs. 1,000.

50. (*1*) Except as is otherwise provided in sub-section (*3*), a Chief Officer shall, [1]* * * before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, give notice by advertisement in a local newspaper, inviting tenders for such contract :

[2][Provided that at least clear seven days shall be allowed to elapse between the date of the publication of the advertisement in the newspaper inviting tenders and the last date fixed for the receipt of tenders by the Chief Officer.]

(*2*) The Chief Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, with the approval of the standing committee, accept any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(*3*) A municipality may authorise the Chief Officer, for reasons which shall be recorded in its proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tenders which he may receive after having invited them.

Security when to be taken for performance of contract.

51. A Chief Officer shall require security for the due performance of every contract into which he enters under section 50 and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

(*5*) *Compulsory acquisition of land.*

Recourse to the Land Acquisition Act, 1894.

52. When there is any hindrance to the permanent or temporary acquisition by a municipality upon payment of any land or building required for the purposes of this Act, [3][the [4][State] Government] may, after obtaining possession of the same for itself under the [5][Land Acquisition Act, 1894,] or other existing law, vest such land or building in the municipality on its paying the compensation awarded, and on its repaying to [3][the [4][State] Government] all costs incurred by [3][the [4][State] Government] on account of the acquisition.

I of 1894.

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[1] The words "at least seven days" were deleted by Bom. 26 of 1953, s. 20 (*1*).
[2] This proviso was added, *ibid*, s. 20 (*2*).
[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] *See* Central Acts.

(6) Liabilities of councillors, officers and servants.

Councillors to be held responsible for misapplied funds.

53. Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through or been facilitated by gross neglect of his duty as a councillor and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of [1][the [2][State Government]]:

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of the municipality; the funds at the disposal of each municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses.

Officer or servant of municipality not to be interested in contract with such municipality.

54. (*1*) Any person who has directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of a municipality, or in any employment with, under, by or on behalf of a municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such municipality.

(*2*) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant, and his office shall become vacant.

(*3*) Nothing in this section shall apply to any such share or interest in any contract or employment—with, under, by or on behalf of a municipality, as under clauses (*i*), (*ii*) and (*iv*) of sub-section (*3*) of section 12, it is permissible for a person to have without his being thereby disqualified from becoming a councillor.

Penalty for councillor, officer or servant of a municipality being interested in contract, etc., with that municipality.

55. (*a*) Any councillor who knowingly acquires directly or indirectly any share or interest in any contract or employment with, under, by or on behalf of a municipality of which he is a member, not being a share or interest such as under section 12 it is permissible for a person to have without being thereby disqualified from becoming a councillor, and

(*b*) any municipal officer or servant who knowingly acquires directly or indirectly any share or interest in any contract, or, except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by or on behalf of a municipality of which he is an officer or servant, not being a share or interest such as under clauses (*i*) and (*iv*) of sub-section (*3*) of section 12—it is permissible for a person to have without being thereby disqualified from becoming a councillor,

shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees.

Councillors, etc., to be deemed public servants.

56. (*1*) Every municipal councillor, officer or servant and every lessee of the levy of any municipal tax, and every servant or other person employed by any such lessee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

(*2*) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (*1*) of this section, be deemed to include a municipality.

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[1] The words "the Crown for the purposes of the Province" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words "Crown for the purposes of the Province" by the Adaptation of Laws Order, 1950.

(7) Validity of proceedings.

Acts and proceedings of municipality and committee not vitiated by disqualifications, etc., of members thereof.

57. *(1)* No disqualification of or defect in the election or appointment of any person acting as councillor or as the president or presiding authority of a general meeting or as chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

No resolution of a municipality or of any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice, upon any councillor or member, provided that the proceedings of the municipality or committee, were not prejudicially affected by such irregularity.

Proceedings presumed to be good and valid.

(2) Until the contrary is proved every meeting of a municipality or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified ; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

Vacancy not to affect proceedings.

(3) During any vacancy in a municipality or committee the continuing councillors or members may act as if no vacancy had occurred.

CHAPTER IV.

Rules and By-Laws.

Municipalities to make rules.

58. A municipality shall make rules not inconsistent with this Act and may from time to time alter or rescind them—

(a) regulating the conduct of its business and the delegation of any of its powers or duties to any committee or to the Chief Officer or [1][subject to the provisions of section 37A] the powers or duties of any committee to any other committee or to the Chief Officer and the appointment and constitution of committees ;

[2][*(aa)* prescribing the limitations and restrictions subject to which the Pilgrim Committee shall exercise the powers and perform the duties of the municipality in respect of the Pilgrim Fund.]

Defining the functions of the president and others ;

(b) determining the executive functions to be performed by the president, vice-president and the chairman of any committee ;

establishment ;

(c) determining the staff of officers and servants to be employed by the municipality and the respective designations, salaries, fees and absentee or other allowances of such officers and servants and their powers and duties ;

general guidance of municipal servants ;

(d) generally for the guidance of its officers and servants in all matters relating to the municipal administration ;

amount of security :

(e) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security ;

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[1] These words, figures and letter were inserted by Bom. 4 of 1930, s. 4.
[2] This clause was inserted, *ibid.*

mode of appointing, etc., municipal servants;

(*f*) determining subject to the limitations imposed by sections [1][33, 34 (5) and 34A], the mode and conditions of appointing, punishing, or dismissing any officer or servant; and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any officer or servant;

leave to municipal servants;

(*g*) regulating the grant of leave to its officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave;

pensions, etc.;

(*h*) regulating the period of service of its officers and servants and determining the conditions under which such officers and servants or any of them shall receive pensions, gratuities or compassionate allowances on retirement [2][or discharge from service] or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities or compassionate allowances; and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty;

provident funds;

(*i*) authorizing the payment of contributions at such rates and subject to such conditions as may be prescribed in such rules, to any pension or provident fund which may be established by the municipality or, with the approval of the municipality, by its officers and servants;

prescribing taxes;

(*j*) prescribing the taxes to be levied in the municipal borough for municipal purposes, the circumstances in which exemption will be allowed, the conditions on which and the extent to which remissions will be granted, and the system on which refunds will be allowed and paid, in respect of such taxes; the limits of the charges or payments to be fixed in lieu of any tax under section 91, the fees to be charged for licences or permissions granted under section 90 and for giving copies and stamping weights and measures; the fees for notices demanding payments due on account of any tax and for the [3][issue and] execution of warrants of distress and the rates to be charged for maintaining any live-stock distrained; and the time at which and the mode in which such taxes, charges, payments, fees or rates shall be levied or recovered or be payable and the persons authorised to receive payment of the same and the manner in which auctions of moveable and immovable property under section 106 shall be held;

writing off amounts due.

() prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the standing committee:

Provided that—

Approval required to rules.

(*a*) no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by [4][the Provincial Government];

Officers transferred from or to the service of the Crown.

[5][(*b*) if an officer serving or having served under a municipality has been, or is, transferred from or to the service of the Crown, or is partly employed by the Crown and partly by a municipality, the municipality shall make such contributions to his pension and leave allowances as may be required, by the conditions of his service under the Crown, to be made by him or on his behalf.]

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[1] These figures, word, letter and brackets were substituted for the figures, word and brackets "33 and 34(5)" by Bom. 3 of 1930, s. 3.

[2] These words were inserted by Bom. 36 of 1949, s. 9.

[3] The words "issue and" were inserted by Bom. 12 of 1931, s. 3 (*b*).

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] The proviso (*b*) was substituted for the original proviso (*b*), *ibid.*

(*c*) a municipality shall not, unless with the assent of [1][the government concerned], dispense with the services of any officer transferred from the service of [2][the Crown] to the service of the municipality or employed partly by [2][the Crown] and partly by the municipality, or finally dismiss from the service of the municipality any officer transferred from the service of the municipality to the service of [2][the Crown] without giving [1][the government concerned] six months' previous notice. Notice required in certain cases of dismissal.

[3][**58A.** A municipality may, at its discretion, make rules, not inconsistent with this Act, determining the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of its officers and servants or any of them who die during service and the amount of such gratuities or compassionate allowances : Discretionary power to make rules.

Provided that no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by [4][the Provincial Government].

59. (*1*) Notwithstanding anything contained in clause (*a*) of the proviso to section 58, the approval required to be given in respect of rules framed under clause (*c*) of section 58 may be given by the Commissioner instead of by [5][the Provincial Government], subject to the condition that any such rules relating to Chief Officers, health officers or engineers or to the salaries, fees or absentee or other allowances of such officers shall require the sanction of [4][the Provincial Government]. Rules made with approval of Commissioner or without approval.

(*2*) Notwithstanding anything contained in clause (*a*) of the provise to section 58 or in sub-section (*1*) of this section, a municipality shall have power to make without sanction a rule under clause (*c*) of section 58, creating an appointment or increasing the salary of an appointment or granting or increasing an allowance in any case where the salary of such appointment or the amount of such allowance or the amount of such increase, as the case may be, does not involve a charge on the municipal fund exceeding rupees one hundred in the month :

Provided that [4][the Provincial Government] may withdraw this power from any municipality either permanently or for such period as they think fit to prescribe when in their opinion there are good reasons for doing so.

60. (*1*) Subject to the requirements of clause (*a*) of the proviso to section 58 a municipality may, except as otherwise provided in clause (*b*) of the proviso to section 103 at any time for any sufficient reason, suspend, modify or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax. Power to suspend, reduce or abolish any existing tax

(*2*) The provisions of Chapter VII relating to the imposition of taxes shall apply so far as may be to the suspension, modification or abolition of any tax and to the suspension, alteration or rescission of any rule prescribing a tax.

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[1] The words "the government concerned" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[2] The words "the Crown" were substituted for the words "the Government", *ibid.*
[3] This section was inserted by Bom. 9 of 1930, s. 2.
[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[5] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

Power to make by-laws;

61. (*1*) A municipality may from time to time, with the previous sanction of [1][the Provincial Government], make, alter or rescind by-laws not inconsistent with this Act—

markets and slaughter-houses, etc.;

(*a*) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein; and for fixing the rents and other charges to be levied for the use of any of them which belong to the municipality, for regulating the sale of fruit and vegetables in the municipal market or other specified places;

licensing, regulating and inspecting certain businesses;

(*b*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of any place not belonging to the municipality—

(*i*) as a slaughter-house;

(*ii*) for the manufacture, preparation, storing, sale or supply for the purpose of trade of any article or thing intended for human food or drink, whether such food or drink is to be consumed in such place or not;

(*iii*) for any of the purposes mentioned in sub-section (*1*) of section 186;

and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom;

use of steam whistles, etc.;

(*c*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories or other places for the purpose of summoning or dismissing workmen or persons employed;

pilgrims' lodging houses;

(*d*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of any place or building for the purpose of lodging pilgrims, and providing for the inspection and regulation of such places or buildings;

stalling of cattle, etc.;

(*e*) prohibiting the stalling or herding of horses camels, cattle, donkeys, sheep or goats otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health;

milk shops;

(*f*) prescribing the conditions on which sweet-meats, [2][milk, butter or other milk products] may be sold and on which licences may be granted, refused, suspended, or withdrawn [3][for carrying on the trade or business of a dealer in, or importer or seller of, sweet-meats, milk, butter or other milk products, or] for the use, for purposes of trade, of any place for stabling milch cattle, for storing or selling milk, or for making, storing or selling butter or other milk products;

for regulating dairies and cattle-sheds,

(*g*) (*i*) for the inspection of milch cattle; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk sellers;

milk stores, etc.;

(*ii*) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter;

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 36 of 1949, s. 10(*a*).

[3] Those words were inserted, *ibid.*

[1](*h*) * * * * * * *

[1](*i*) * * * * * * *

(*j*) for the registration of births, deaths, and marriages [2]* * * * within the municipal borough and for enforcing the supply of such information as may be necessary to make such registration [3][* * *effective; — registration of births, etc.;

(*k*) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead; — regulating the disposal of the dead;

(*l*) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of sections 179 and 180; — for enforcing supply of information as to epidemics;

(*m*) for enforcing the supply of such information by inhabitants of the municipal borough as may be necessary to ascertain their respective liabilities to any tax imposed therein; — for enforcing information as to liability to municipal taxation;

(*n*) fixing octroi limits and stations; providing for the exhibition of tables of octroi; regulating, subject to any general or special orders which [4][the [5][State] Government] may make in this behalf, the system, under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for [6][consumption, use or sale] within the municipal borough; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained and the minimum amount for which any claim to refund may be made; — octroi;

(*o*) fixing terminal tax limits and stations, providing for the exhibition of tables of terminal tax, and regulating the mode of recovery of such tax; — terminal tax;

(*p*) for conserving and preventing injury to sources and means of water supply and appliances for the distribution of water, whether within or without the limits of the municipal borough, and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works, and of pipes and fittings in connection therewith, whether the property of the municipality or not; — for protecting water;

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[1] On the coming into force of Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932) in any area, clauses (*h*) and (*i*) shall be deemed to have been repealed.—(*Vide* Bom. 15 of 1932, s. 47 and Second Schedule, Part II). Clauses (*h*) and (*i*) run as follows:—

"(*h*) for the inspection of weights and measures under section 177 and for the stamping of weights and measures and for charging fees for the same;

(*i*) for defining the standard weights and measures used within the municipal borough;"

[2] The words "and the taking of a census" were omitted by the Adaptation of Indian Laws Order in Council.

[3] The words "or census" were omitted, *ibid.*

[4] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] These words were substituted for the words "use or consumption" by Bom. 2 of 1955, s. 3, Second Schedule.

Explanation.—Sources and means of water supply shall include private wells which are used by the public.

[1][(*pp*) for securing an adequate supply of pure water to persons occupying residential premises ;]

public baths, etc.; (*q*) regulating the use of public bathing and washing places within the municipal borough ;

conservancy ; (*r*) regulating sanitation and conservancy and the disposal of the carcasses of dead animals ;

temporary structures and buildings ; (*s*) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures on public streets or for projections over public streets ;

buildings ; (*t*) regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of health, and determining the purposes for which existing or newly erected buildings may be used in any area ;

streets ; (*u*) for preventing the erection of buildings without adequate provision being made for the location and laying out of streets ; and for the payment of compensation in such cases when necessary ;

ventilation ; (*v*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air ;

for requiring lighting staircases, etc., at night ; [2][(*vv*) for requiring an owner of a building divided into two or more separate tenements to provide adequate means of lighting at night time a staircase, passage or private court of or in any such building or the spaces near or leading to latrines or urinals or washing places therein and of extinguishing such lights ;]

qualified surveyors ; (*w*) prescribing the qualifications of surveyors or persons by whom plans required under section 123 are to be prepared, or of plumbers ; for licensing persons to be surveyors or plumbers and, fixing the fees chargeable for such licences ; and for modifying the provisions of or revoking such licences ; and prohibiting any alterations or repairs or fittings to water or drainage pipes or house connections being carried out or made except by such persons ;

drains ; (*x*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines, urinals and drainage or sewerage works of every description whether the property of the municipality or not ;

requiring information and plans in certain cases ; (*y*) determining the information and plans to be required by the municipality under sections 117 and 123 ;

controlling unwieldy traffic ; (*z*) prohibiting vehicular traffic in any particular street, so as to prevent danger, obstruction or inconvenience to the public, by fixing up posts at both ends of such street or portion of such street, prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such heavy or unwieldy objects

[1] This clause was inserted by Bom. 36 of 1949, s. 10 (*b*).
[2] Clause (*vv*) was inserted by Bom. 53 of 1954, s. 9.

as may be deemed likely to cause injury to the roadways or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants, and other general precautions as may be prescribed either generally in such by-laws or in special licences to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws :

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the municipality in conspicuous places at or near both ends of such street or portion of a street ;

(*aa*) securing the protection of public parks, gardens and open spaces, vested in or under the control of the municipality, from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them ; public parks;

[1](*bb*) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for the use of hand-carts, and hand-barrows, other than those plying for hire in respect of which licences have been granted under the Bombay Public Conveyances Act, 1920, and providing for the seizure and detention of any hand-carts or hand-barrows which have not been duly licensed in pursuance of the by-laws made under this section ; Bom. VII of 1920.

[1](*cc*) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever, whether it be for human consumption or not ;

[1] Clauses (*bb*) and (*cc*) were inserted by Bom. 19 of 1935, s. 7 (*i*).

[1](*dd*) prescribing the conditions on or subject to which permission may be granted, renewed, refused, suspended or withdrawn for erecting, exhibiting, fixing or retaining any sky-sign or advertisement, over any land, building or structure.

[1] *Explanation.*—The expression " sky-sign " shall mean any word, letter, model, sign, device or representation in the nature of an advertisement, announcement or direction, supported on or attached to any post, pole, standard, framework or other support wholly or in part upon or over any land, building or structure which, or any part of which sky-sign, shall be visible against the sky from some point in any street and includes all and every part of any such post, pole, standard, framework, or other support. The expression " sky-sign " shall also include any balloon, parachute or other similar device employed wholly or in part for the purposes of any advertisement, announcement or direction upon or over any land, building or structure or upon or over any street, but shall not include—

(*a*) any flagstaff, pole, vane or weather-cock, unless adapted or used wholly or in part for the purpose of any advertisement, announcement or direction;

(*b*) any sign, on any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to the ridge of a roof:

Provided that such board, frame or other contrivance be of one continuous face and not open work, and do not extend in height more than three feet above any part of the wall, parapet or ridge to, against, or on which it is fixed or supported;

(*c*) any word, letter, model, sign, device or representation as aforesaid, relating exclusively to the business of a railway company, and placed wholly upon or over any railway, railway station, yard, platform or station approach belonging to a railway company, and so placed that it cannot fall into any street or public place;

(*d*) any notice of land or building to be sold or let, placed upon such land or building.

[2](*ee*) generally for the regulation of all matters relating to municipal administration; General regulation.

and the municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for every infringement of any such by-law. Fine may be imposed for infringement of by-laws.

[3][(*1a*) A municipality may, from time to time, with the previous sanction of the Central Government, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act, for the taking of a census within the municipal borough and for enforcing the supply of such information as may be necessary to make such census effective.]

[1] Clause (*dd*) and the Explanation were inserted by Bom. 19 of 1935, s. 7.(*i*).

[2] The original clause (*bb*) was relettered (*ee*), *ibid*, s. 7 (*ii*).

[3] Sub-section (*1a*) was inserted by the Adaptation of Indian Laws Order in Council.

Publication of drafts of proposed by-laws.

(2) A municipality shall, before making any by-law under this section, publish in such manner as shall in its opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the by-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

Objections and suggestions to be submitted to Central or [2][State] Government

(3) When any by-law made by a municipality is submitted to [1][the Central or the [3][State] Government] for sanction, a copy of the notice published and of every objection or suggestion received under the provisions of sub-section (2), shall be submitted for the information of [3][that Government] along with the said by-law

Rules and by-laws to be printed and sold.

62. The rules and by-laws for the time being in force shall be kept open to public inspection at the municipal office at all reasonable times; printed copies thereof and of this Act in the vernacular language of the district and in English shall be kept on sale at cost price.

CHAPTER V.

Municipal Property and Fund.

Power to acquire and hold property for the purposes of the Act.

63. (1) A municipality may acquire and hold property both moveable and immoveable, whether within or without the limits of the municipal borough.

(2) All property of the nature specified in the clauses to this section, not being specially reserved by [4][the [2][State] Government], shall be vested in and belong to the municipality, and shall, together with all other property of what nature or kind soever, which may become vested in the municipality, be under its direction, management and control, and shall be held and applied by it is as trustee, subject to the provisions and for the purposes of this Act:—

(a) All public town-walls, gates, markets, slaughter-houses, manure and night soil depots, and public buildings of every description.

(b) All public streams, tanks, reservoirs, cisterns, wells, springs, acqueducts, conduits, tunnels, pipes, pumps and other water works; and all bridges, buildings, engines, works, materials and things connected with or appertaining to such water works; and also any adjacent land, not being private property, appertaining to any public tank or well.

(c) All public sewers and drains; all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto; all dust, dirt, dung, ashes, refuse, animal matter, filth, or rubbish of any kind collected by the municipality from the streets,houses, privies, sewers, cesspools or elsewhere.

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[1] The words "the Central or the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "that Government" were substituted for the words "the Government", by the Adaptation of Indian Laws Order in Council.

[4] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

(*d*) All public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto.

(*e*) All lands transferred to it by the [1][Government] or by gift or otherwise, for local public purposes.

(*f*) All public streets, and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets :

[2][Provided that lands transferred to the municipality by the State Government under clause (*e*) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the municipality but shall vest in it subject to the terms and conditions of the transfer, and on the breach of any of the said terms or conditions, the lands with all things attached thereto, including all fixtures and structures thereon, shall revest in the State Government and it shall be lawful for the State Government to resume possession thereof.

Decision of claims to property by or against the municipality.

64. (*1*) In any municipal borough to which a survey of lands, other than lands ordinarily used for the purposes of agriculture only, has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the municipality, or by any person as against the municipality, it shall be lawful for the Collector after formal enquiry, of which due notice has been given, to pass an order deciding the claim.

(*2*) Any suit instituted in any civil court after the expiration of one year from the date of any order passed by the Collector under sub-section (*1*), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined, according to section 204 of the Bombay Land Revenue Code, 1879, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order provided that the plaintiff has had due notice of such order.

Bom. V of 1879.

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[1] This word was substituted for the word "Crown" by Adaptation of Laws Order, 1950.
[2] This proviso was inserted by Bom. 35 of 1954, s. 24.

(*3*) (*a*) The powers conferred by this section on a Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

(*b*) The formal enquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code. Bom. V of 1879.

(*c*) Any person shall be deemed to have had due notice of an enquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by [1][the [2][State] Government].

Municipal fund.

65. All moneys received by or on behalf of a municipality by virtue of this or any other Act ; all taxes, fines and penalties paid to or levied by it under this Act [3][other than fines imposed by any Court] ; all proceeds of land or other property sold by the municipality, and all rents accruing from its land or property ; and all interest, profits and other moneys accruing by gift or transfer from the [4][Government] or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property specified in section 63 :

Provided that—

Special trusts.

(*a*) nothing in this section or in section 63 shall in any way affect any obligation accepted by or imposed upon any municipality by any declarations of trust executed by or on behalf of such municipality or by any scheme settled under the [5]Charitable Endowments Act, 1890, for the administration of any trust, or by a trust of the nature specified in clause (*b*) of this proviso ; VI of 1890.

(*b*) a municipality may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the municipal accounts any portion of the municipal fund received or set apart by it specially for the purposes of schools or dispensaries or water works or fire-brigades or other such purposes as the Commissioner in this behalf approves, and the municipality may apply any sums properly so credited exclusively to the special purposes for which such sums were received or set apart.

[6](*c*) (*1*) Every municipality in a municipal borough in which a tax on pilgrim resorting periodically to a shrine within the limits of the municipal borough is levied shall, subject to the condition that reasonable provision shall be made for the purposes specified in clause (2), credit the proceeds of the said tax to a separate heading in the municipal account, to be called the " Pilgrim Fund Account."

(*2*) The purposes for which provision shall be made by a municipality before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following, namely, the payment to the municipality of such percentage of the proceeds of the said tax as may be determined from time to time by the municipality with the approval of the Commissioner for

(*i*) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under this Act or any other law for the time being in force ;

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " other than fines imposed by any court " were inserted, by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[5] *See* Central Acts.

[6] This proviso was added by Bom. 4 of 1930, s. 4 (*x*).

(*ii*) such general duties of the municipality as are connected with the health, convenience and safety of the said pilgrims ; and

(*iii*) the cost of collection of the said tax.

(*3*) the sums credited under clause (1) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.

Application of municipal property and funds within and without the municipal borough.

66. The municipal fund and all property vested in a municipality shall be applied for purposes of this Act within the limits of the municipal borough :

Provided always that it shall be lawful for the municipality with the sanction of [1][the [2][State] Government or any officer duly authorised by it in this behalf,—

(*a*) to incur expenditure in the acquisition of land or in the construction, maintenance [3][repair or purchase of works] beyond the said limits for the purpose of obtaining a supply of water required for the inhabitants of the municipal borough [4][or of providing the supply of electrical energy for the use of the inhabitants of the said borough] or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals or for drainage works [5][or for the purpose of providing mechanically propelled transport facilities for the conveyance of the public or for the purpose of setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal borough], or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said borough ; or

(*b*) to make a contribution towards expenditure incurred by any other local authority or out of any public funds for measures affecting the health, instruction, safety or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality ; or

(*c*) to create scholarships tenable outside the limits of the municipal borough :

Provided further, that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for a municipality when with such sanction as aforesaid it has constructed works beyond the limits of the municipal borough for the supply of water [6][or electrical energy] or for drainage as aforesaid—

(*a*) to supply or extend to or for the benefit of any person or buildings or lands in any place whether such place is or is not within the limits of the said borough, any quantity of water [6][or electrical energy] not required for the purposes of this Act within the said borough, or the advantages afforded by the system of drainage works, on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the municipality and such person or the occupier or owner of such buildings or lands, or

(*b*) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repairs or alteration of any connection pipes [6][or any electric supply lines] or other works necessary for the purpose of such supply or for the extension of such advantages.

Power to deposit and invest surplus funds.

67. (*1*) It shall be lawful for a municipality to deposit [7]* * * with the Imperial Bank of India or such other Bank as may hereafter be appointed to conduct the business of [8][Government treasury] at Bombay [9][or in any other scheduled bank]

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words " or repair of works " by Bom. 44 of 1951, s. 4(*1*).

[4] These words were inserted, *ibid.*

[5] These words were inserted by Bom. 35 of 1955, s. 19.

[6] These words were inserted by Bom. 44 of 1951, s. 4 (*2*).

[7] The words " at interest " were deleted by Bom. 23 of 1931, s. 4 (*i*).

[8] These words were substituted for the words " His Majesty's treasury " by the Adaptation of Laws Order, 1950.

[9] These words were inserted by Bom. 26 of 1953, s. 21 (*1*). This amendment shall be deemed to have been made on and to have effect from the 20th day of November 1951 (*vide* s. 30 of Bom. 26 of 1953).

or with the sanction of [1][the [2][State] Government] in any bank in the Presidency of Bombay any surplus funds in its hands which may not be required for current charges, and to invest such funds in public securities in the name of the municipality, and from time to time to dispose of such securities as may be necessary.

II of 1934. [3][*Explanation.*—For the purposes of this sub-section, a scheduled bank shall mean a bank included in the Second Schedule to the Reserve Bank of India Act, 1934.]

(2) All surplus funds over and above what may be required for current expenses, unless deposited or invested as provided for in sub-section (*1*), shall be deposited in the local Government treasury or such other place of security as may be sanctioned in the rules of the municipality, Surplus not so deposited or invested how to be dealt with.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This Explanation was added by Bom. 26 of 1953, s. 21(2). This amendment shall be deemed to have been made on and to have effect from the 20th day of November 1951 (*vide* s. 30 of Bom. 26 of 1953).

CHAPTER VI.

OBLIGATORY AND DISCRETIONAL FUNCTIONS OF MUNICIPALITIES.

Duties of municipalities.

68. It shall be the duty of every municipality to make reasonable and adequate provision—

(*1*) for the following matters within the municipal borough under its authority, namely :—

(*a*) lighting public streets, places and buildings ;

(*b*) watering public streets and places ;

(*c*) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such places are vested in the municipality or not ; removing noxious vegetation ; and abating all public nuisances ;

(*d*) extinguishing fires, and protecting life and property when fires occur ;

(*e*) regulating or abating offensive or dangerous trades or practices ;

(*f*) removing obstructions and projections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipality or in His Majesty ;

(*g*) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead ;

(*i*) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like ;

(*j*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost ;

(*k*) naming streets and numbering houses ;

(*l*) registering births, marriages and deaths ;

(*m*) public vaccination ;

(*n*) suitable accommodation for any calves, cows, or buffaloes required within the municipal borough for the supply of animal lymph ;

(*o*) establishing and maintaining public hospitals and dispensaries, and providing public medical relief ;

(*p*) establishing and maintaining primary schools ;

(*q*) printing such annual reports on the municipal administration of the borough as [1][the Provincial Government] by general or special orders requires the municipality to submit ;

(*r*) paying the salary and the contingent expenditure on account of such police or guards as may be required by the municipality for the purposes of this Act or for the protection of any municipal property ;

(*s*) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal borough ; [2]*

[3][(*t*) disposing of night-soil and rubbish and if so required by the Provincial Government preparation of compost manure from such night-soil and rubbish ;

(*u*) constructing and maintaining residential quarters for the conservancy staff of the municipality ; and]

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The word " and " was deleted by Bom. 36 of 1949, s. 11.

[3] This portion was inserted, *ibid.*

(2) subject to such reasonable and adequate provision as aforesaid, for the following special matters, namely :—

(*a*) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of the disease ;

(*b*) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal borough.

Provision for anti-rabic treatment of indigent persons.

69. Every municipality shall, out of the municipal property and fund, make payments, at such rates and subject to such conditions as [1][the Provincial Government] from time to time by general or special order prescribes, for the maintenance and treatment in any institution which [1][the Provincial Government] declares by notification to be suitable for such purpose either within or without the municipal borough, and for other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institution and proceeding from the municipal borough :

Provided that the municipality shall not be liable under this section for the maintenance, treatment and other necessary expenses of any person undergoing anti-rabic treatment as an indigent person in any such institution as aforesaid, unless such person, previous to his admission thereto, has been resident in the municipal borough for at least one year.

Provision for lunatics and lepers.

70. Every municipality shall also, out of the municipal property and fund, make payments at such rates as [1][the Provincial Government] from time to time by general or special order prescribes, for the maintenance and treatment either in the municipal borough or at any asylum, hospital or house, whether within or without such borough, which [1][the Provincial Government] declares by notification to be suitable for such purpose,—

(*a*) of lunatics, not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898, is in force, and

(*b*) of lepers, V of 1898.

resident within, or under any enactment for the time being in force removed from, such borough :

Provided that the municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal borough for at least one year :

Provided further that [2][where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no order for the payment of the cost of maintenance of the lunatic by a municipality shall be made without an opportunity being given to such municipality to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him]. The officer in charge of any asylum to which lunatics for whose maintenance and treatment a municipality is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of each lunatic detained in the asylum and shall furnish a copy thereof to the municipality on application. IV of 1912.

Analysis and inspection of water supplied through pipes.

[3][**70A.** If any municipality supplies water through pipes, it shall take such steps, at such intervals, and on payment of such fees, as may be determined by a general or special order made by the Provincial Government, to ascertain the condition of the water so supplied, by inspe tion and analysis at a laboratory approved by the Provincial Government in that behalf :

Provided that the Provincial Government may, by notification in the *Official Gazette*, exempt any municipality from the provisions of this section.]

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words beginning with the words " before making any order " and ending with the words " the Local Government " by Bom. 15 of 1936, s. 4.

[3] This section was inserted by Bom. 36 of 1949, s. 12.

Discretionary powers of expenditure of municipalities.

71. A municipality may, at its discretion, provide, either wholly or partly, out of the municipal property and fund for—

(*a*) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof, to abut on such streets ;

(*b*) constructing, establishing, or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharamsalas, [1][rest-houses, homes for disabled and destitute persons] and other public buildings ;

(*c*) furthering educational objects other than those set forth in clause (*p*) of sub-section (*1*) of section 68 ;

(*d*) planting and maintaining road-side and other trees ;

(*e*) providing music for the people ;

(*f*) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics ;

(*g*) making a survey ;

(*h*) paying the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or honorary Magistrate, or any portion of any such charges ;

(*i*) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 157 of this Act or under section 49 of the Bombay District Police Act, 1890,† [2]* * * * * * * ;

Bom. IV of 1890.

(*j*) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in sub-section (*1*) of section 186 ;

(*k*) supplying, constructing and maintaining, in accordance with a general system approved by the sanitary board, receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipality ;

(*l*) the acquisition and maintenance of grazing grounds ; and the establishment and maintenance of dairy farms and breeding stud ;

(*m*) establishing and maintaining a farm or factory for the disposal of sewage ;

(*n*) the construction, maintenance, management, organisation or purchase of telephone lines, or for guaranteeing the payment of interest on money expended for the construction of a telephone line subject to the previous sanction of the Commissioner when the line extends beyond the limits of the municipal borough ;

[3][(*nn*) promoting the well-being of municipal employees or any class of municipal employees and of their dependents ;]

(*o*) providing accommodation for any class of servants employed by the municipality [4][other than the conservancy staff ;]

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[1] These words were substituted for the words "rest-houses" by Bom. 36 of 1949, s. 13 (*i*).
[2] The portion deleted by Bom. 8 of 1950, ss. 5 and 11, is omitted.
[3] This clause was inserted by Bom. 36 of 1949, s. 13 (*ii*).
[4] These words were added, *ibid.*, s. 13 (*iii*).
†*See* now the Bombay Police Act, 1951 (Bom. 22 of 1951).

(*p*) the construction of sanitary dwellings for the poorer classes ;

[1][(*q*)] the construction, purchase, organisation, maintenance, extension and management of light railways, tramways and mechanically propelled transport facilities for the conveyance of the public ;]

[2][(*q*[1]) the construction, maintenance, repairs, purchase of any works for the supply of electrical energy ;]

[3][(*qq*) making contribution to the funds of the Local Self-Government Institute, Bombay ;]

[4][(*qq-i*) making contributions towards the construction, establishment or maintenance of educational institutions including libraries and museums, any hospital, dispensary or similar institution providing for public medical relief, or any other institution of a charitable nature ;]

[5][(*qq-ii*) the setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal borough ;]

(*r*) any other measure not specified in section 68 likely to promote the public safety, health, convenience or education ; and

(*s*) by a resolution passed at a general meeting and supported by two-thirds of the whole number of councillors any public reception, ceremony, entertainment or exhibition within the municipal borough.

Arrangements purporting to be binding permanently or for a term of years.

72. Where a municipality has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the municipality or its successors with the sanction of [6][the [7][State] Government] to cancel such arrangement or promise, or to discontinue, or to diminish such yearly contribution provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

CHAPTER VII.

MUNICIPAL TAXATION.

(*1*) *Imposition of Taxes.*

Taxes which may be imposed.

73. Subject to any general or special orders which [6][the [7][State] Government] may make in this behalf and to the provisions of sections 75 and 76, a municipality may impose for the purposes of this Act any of the following taxes, namely :—

(*i*) a rate on buildings or lands or both situate within the municipal borough ;

(*ii*) a tax on all vehicles, boats or animals used for riding, draught or burden and kept for use within the said borough, whether they are actually kept within or outside the said borough :

[8][Provided that where a motor vehicle is kept for use within the said borough as well as another municipal borough or municipal district, it shall be liable to be taxed only by the municipality within, or nearest to, whose limits such vehicle is actually kept.]

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[1] This clause was substituted for the original by Bom. 2 of 1947, s. 3.
[2] This clause was inserted by Bom. 44 of 1951, s. 5.
[3] This clause was inserted by Bom. 36 of 1949, s. 13 (*iv*).
[4] Clause (*qq-i*) was inserted by Bom. 26 of 1953, s. 22.
[5] This clause was added by Bom. 35 of 1955, s. 20.
[6] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.
[7] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[8] This proviso was inserted by Bom. 7 of 1946, s. 3 read with Bom. 1 of 1947, s. 4.

Bom. XXXIV of 1935.

(*iii*) a toll on vehicles [1][(other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] and animals used as aforesaid, entering the said borough but not liable to taxation under clause (*ii*) of this section;

(*iv*) an octroi on animals or goods or both, brought within the octroi limits for consumption [2][, use or sale] therein;

(*v*) a terminal tax on goods imported into or exported from the terminal tax limits:

Provided that, save as provided in clause (*xiv*) no such tax shall be leviable in a borough in which an octroi was not levied on or before the 6th July 1917;

(*vi*) a tax on dogs kept within the said borough;

(*vii*) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

(*viii*) a general sanitary cess for the construction and maintenance of public latrines, and for the removal and disposal of refuse;

(*ix*) a drainage tax;

(*x*) a general water-rate or a special water-rate or both for water supplied by the municipality, which may be imposed in the form of a rate assessed on buildings and lands or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of [3][cases] or of any individual case;

(*xi*) a lighting tax;

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[1] These words, figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.
[2] These words were substituted for the words "or use" by Bom. 35 of 1954, s. 25.
[3] The word "cases" was substituted for the word "case" by Bom. 24 of 1926, s. 2, Sch.

(*xii*) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough;

(*xiii*) a special educational tax;

[1][(*xiv*) any other tax (not being a toll on motor vehicles and trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which under the [2]Constitution], the [3]State] Legislature has power to impose in the [4]State]].

Bom. XXXIV of 1935.

[5](*xv*) * * * * * *

Provided that—

(*a*) no tax imposed as aforesaid, other than a special sanitary cess, a drainage tax or a water-rate, shall, without the express consent of the [6]Government], be leviable in respect of any building or part of any building or of any vehicle, animal or other property, belonging to [7]Government] and used soley for public purposes and not used or intended to be used for purposes of profit; and no toll shall be leviable in respect of any animal or vehicle used for the passage of troops or the conveyance of [6]Government] stores or of any other [6]Government] property, or for the passage of military or police-officers on duty or the passage or conveyance of any person or property in their custody;

(*b*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the municipality has—

(*i*) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(*ii*) issued either severally to the person to be charged, or generally to the inhabitants of the borough or part of the borough to be charged with such cess, one month's notice of the intention of the municipality to perform such cleansing and to levy such cess;

(*c*) the municipality in lieu of imposing separately any two or more of the taxes described in clauses (*i*), (*viii*), (*x*) and (*xi*), may impose a consolidated tax assessed as a rate on buildings or lands or both situated within the municipal borough.

[8][(*2*) Nothing in this section shall authorize the imposition of any tax which the [3]State] Legislature has no power to impose in the [4]State] under the [2]Constitution]:

Provided that a municipality, which immediately before the commencement of [9]the Constitution] was lawfully levying any such tax under this section as then in force, may continue to levy that tax until provision to the contrary is made by [10]Parliament]].

Payment to be made to the municipality in lieu of a rate on buildings by the Government concerned.

74. (*1*) The [11]Government concerned [12]* * * *] shall pay to the municipality annually in lieu of a rate on buildings from which buildings vesting in [7]Government] are exempted by proviso (*a*) to section 73, a sum ascertained in the manner provided in sub-sections (*2*) and (*3*).

(*2*) The rateable value of the buildings vesting in [7]Government] and beneficially occupied, in respect of which but for the said exemption a rate on such buildings would be leviable from the [11]Government concerned [13]* * * *.]

1. This clause was substituted for the original clause by the Adaptation of Indian Laws Order in Council.
2. This word was substituted for the portion "Government of India Act, 1935" by the Adaptation of Laws Order, 1950.
3. This word was substituted for the word "Provincial", *ibid.*
4. This word was substituted for the word "Province", *ibid.*
5. Clause (*xv*) was omitted by the Adaptation of Indian Laws Order in Council.
6. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
7. This word was substituted for the words "His Majesty", *ibid.*
8. Sub-section (*2*) was inserted by the Adaptation of Indian Laws Order in Council.
9. These words were substituted for the portion "Part III of the said Act" by the Adaptation of Laws Order, 1950.
10. This word was substituted for the words "the Central Legislature", *ibid.*
11. These words were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
12. The words "or the Crown Representative, as the case may be," were omitted in pursuance of para. 7 of the India (Adaptation of Existing Indian Laws) Order, 1947.
13. The words "or the Crown Reresentative" were omitted, *ibid.*

shall be fixed by a person from time to time appointed in this behalf by [1][the [2][State] Government]. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valuation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number and extent of the buildings vesting in [3][Government] in the said borough materially increases or decreases.

(*3*) The sum to be paid annually to the municipality by the [4][Government concerned [5]* * * *] shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings in the said borough on account of the said rate on buildings on a rateable value of the same amount as that fixed under sub-section (*2*).

Procedure preliminary to imposing tax.

75. A municipality before imposing a tax shall observe the following preliminary procedure :—

(*a*) it shall, by resolution passed at a general meeting, select for the purpose one or other of the taxes specified in section 73 and approve rules prepared for the purposes of clause (*j*) of section 58, prescribing the tax selected, and in such resolution and in such rules specify—

(*i*) the classes of persons or of property or of both, which the municipality proposes to make liable, and any exemptions which it proposes to make ;

(*ii*) the amount or rate at which the municipality proposes to assess each such class ;

(*iii*) in the case of a rate on buildings or lands or both, the basis, for each class, of the valuation on which such rate is to be imposed ;

(*iv*) all other matters which [1][the [2][State] Government] may require to be specified therein.

(*b*) When such resolution has been passed, the municipality shall publish the rules so approved with a notice in the form of Schedule II prefixed thereto.

(*c*) Any inhabitant of the municipal borough objecting to the imposition of the said tax or to the amount or rate proposed or to the classes of persons or property to be made liable thereto or to any exemptions proposed may, within one month from the publication of the said notice, send his objection in writing to the municipality ; the municipality shall take all such objections into consideration, or shall authorize a committee to consider the same and report thereon ; and unless it decides to abandon the proposed tax, shall submit such objections with its opinion thereon and any modifications proposed in accordance therewith, together with the notice and rules aforesaid to [1][the [2][State] Government].

Explanation.—In the case of lands the basis of valuation may be either capital or annual letting-value.

Power to sanction, modify and impose conditions.

76. [4][The [2][State] Government] may refuse to sanction the rules submitted under section 75, or may return them to the municipality for further consideration ; or if no objection or no objection which is in its opinion sufficient, was made to the proposed tax within the period prescribed under section 75, may sanction the said rules without modification, or subject to such modifications not involving an increase

1 The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

2 The words " Government concerned or the Crown representative " were substituted for the word " Government ", *ibid.*

3 The words " or the Crown Representative " were omitted in pursuance of para. 7 of the Indian (Adaptation of Existing Indian Laws) Order, 1947.

2 This word was substituted for the " Provincial " by the Adaptation of Laws Order, 1950.

3 This word was substituted for the words " His Majesty ", *ibid.*

in the amount to be imposed, or to such conditions as to the application within the municipal borough to any purpose or purposes of this Act specified in such conditions of the whole or any part of the proceeds of the tax, as it deems fit.

Publication of sanctioned rules with notice.

77. Rules sanctioned under section 76 with the modifications and conditions, if any, subject to which the sanction is given shall be published by the municipality in the municipal borough, together with a notice reciting the sanction and the date and serial number thereof; and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the date of publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the municipality in accordance with all conditions, if any, subject to which sanction under section 76 was given:

Provided that—

(*a*) a tax leviable by the year shall not come into force except on one of the following days, namely, the first day of April, the first day of July, the first day of October or the first day of January in any year; and if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing;

(*b*) on or before the day on which a notice is issued under this section, the municipality shall publish such further detailed rules as may be required, and as may have been approved by [1][the Provincial Government] under clause (*a*) of the proviso to section 58, prescribing the mode of levying, and recovering the tax therein specified and the dates on which it or the instalments, if any, thereof shall be payable;

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

Municipalities empowered by Provincial Government to levy taxes at varying amount or rate.

[2][**77A.** (*1*) [1][The Provincial Government] may, by notification in the [3][*Official Gazette*], empower any municipality to levy any tax imposed by such municipality under section 73 within such maximum and minimum limits either as to the amount or the rate as may be specified in such notification.

(*2*) Notwithstanding any resolution or rule under section 75 specifying the amount or rate at which such tax is leviable, any municipality empowered under sub-section (*1*) may, by a resolution passed at a general meeting, decide to increase or reduce the amount or rate at which such tax is leviable:

Provided that—

(*a*) such increase or reduction shall be within the maximum and minimum limits fixed in respect of such tax under sub-section (*1*), and

(*b*) such increase or reduction shall not exceed ten per centum of the amount or rate at which such tax was leviable during the preceding official year.

(*3*) When a municipality has by a resolution passed under sub-section (*2*) decided to increase or reduce the amount or rate at which any tax is leviable, the municipality shall publish in the municipal borough the resolution together with notice specifying a date, which shall not be less than one month from the date of publication of such notice, from which the amount or rate at which any tax is leviable shall be increased or reduced. The tax at the amount or rate so increased or reduced shall be leviable from the date specified in such notice.]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] S. 77A was inserted by Bom. 10 of 1935, s. 8.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(2) Assessment of and liability to rates on buildings or lands.

Preparation of an assessment-list.

78. *(1)* When a rate on building or lands or both is imposed, the Chief Officer shall cause an assessment-list of all buildings or lands or lands and buildings in the municipal borough to be prepared containing—

(*a*) the name of the street or division in which the property is situate ;

(*b*) a description of the property sufficient for identification ;

(*c*) the names of the owner and occupier, if known ;

(*d*) the valuation based on capital or annual letting value, as the case may be, on which the property is assessed ; and

(*e*) the amount of the tax assessed thereon.

(2) In assessing a tax on buildings or lands, where the valuation determined under clause (*d*) of sub-section *(1)* of this section is the annual letting value, a sum equal to ten per centum of the said valuation shall be deducted therefrom in lieu of all allowance for repairs or on any other account whatsoever.

Power to inspect and require returns.

(3) For the purpose of preparing such assessment-list the Chief Officer or any person acting under his authority may inspect any building or land in the municipal borough and on the requisition of the Chief Officer the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature of the name and place of abode of the owner or occupier or of both and the annual letting value and his estimate of the value of such building or land.

Person primarily liable for a rate on buildings or lands or both how to be designated if his name cannot be ascertained.

79. *(1)* When the name of the person primarily liable for the payment of a rate on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment book, and in any notice which it may be necessary to serve upon the said person under this Act, " the holder " of such premises, without further description.

Occupier liable for a rate on buildings or lands or both until he gives information.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all rates on buildings or lands or both leviable on the premises of which he is in occupation.

Publication of notice of assessment-list.

80. When the assessment-list has been completed, the Chief Officer shall give public notice thereof and of the place where the list or a copy thereof may be inspected ; and every person claiming to be either the owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for lodging objections.

81. *(1)* The Chief Officer shall, at the time of the publication of the assessment-list under section 80, give public notice of a date, not less than one month after such publication, before which objections to the valuation or assessment in such list shall be made ; and in all cases in which any property is for the first time assessed or the assessment is increased, he shall also give notice thereof to the owner or occupier of the property, if known, and if the owner or occupier of the property is not known, he shall affix the notice in a conspicuous position on the property.

Objections how to be made.

(2) Objections to the valuation and assessment of any property in such list shall, if the owner or occupier of such property desires to make an objection, be made by such owner or occupier or any agent of such owner or occupier to the standing committee before the time fixed in the aforesaid public notice, by application in

writing, stating the grounds on which the valuation or assessment is disputed; all applications so made shall be registered in a book to be kept by the standing committee for the purpose.

Hearing of objections.

(*3*) The standing committee, after allowing the applicant an opportunity of being heard in person or by agent, shall—

(*a*) investigate and dispose of the objections,

(*b*) cause the result thereof to be noted in the book kept under sub-section (*2*), and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment list:

[1][Provided that before any such amendment is made the reasons therefor shall be recorded in the book kept under sub-section (*2*)]

[2][Provided further that] powers and duties of the standing committee under this sub-section may be transferred to any other committee appointed by the municipality or with the permission of the Commissioner, to any officer or pensioner of [3][the [4][Government]].

Authentication of list.

(*4*) When all objections made under this section have been disposed of and all amendments required by sub-section (*3*) have been made in the assessment-list, the said list shall be authenticated by the signatures of the chairman and at least one other member of the standing committee, or if the standing committee's powers and functions under sub-section (*3*) have been transferred to any other committee or to an officer or pensioner of [5][the [4][Government]], by the signatures of not less than two members of such committee or of the officer or pensioner aforesaid; the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein.

Custody and inspection of list.

(*5*) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property entered therein or to the agents of such persons, and a notice that it is so open shall be forthwith published.

Authenticated list how far conclusive.

(*6*) Subject to such alterations as may be made therein under the provisions of section 82 and to the result of any appeal or revision made under section 110, the entries in the assessment list so authenticated and deposited and the entries, if any, inserted in the said list under the provisions of section 82 shall be accepted as conclusive evidence—

(*i*) for the purposes of all municipal taxes, of the valuation, or annual letting value on the basis prescribed in the rules regulating the rate, of buildings, lands and both the buildings and lands to which such entries respectively refer, and

(*ii*) for the purposes of the rate for which such assessment list has been prepared, of the amount of the rate liable on such buildings or lands or both buildings and lands in any official year in which such list is in force

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[1] This proviso was added by Bom. 35 of 1954, s. 26 (*1*).
[2] These words were substituted for the words " Provided that ", *ibid.*, s. 26 (*2*).
[3] The words " the Crown " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.
[5] The words " the Crown " were substituted for the words " the Government ", by the Adaptation of Indian Laws Order in Council.

Amendment of assessment-list. Notice of new buildings.

82. (*1*) The standing committee may at any time alter the assessment-list by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment-list through fraud, accident or mistake or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment-list, after giving notice to any person interested in the alteration of the list of a date. not less than one month from the date of service of such notice, before which any objection to the alteration should be made.

Objections how dealt with.

(*2*) An objection made by any person interested in any such alteration, before the time fixed in such notice, and in the manner provided by sub-section (*2*) of section 81, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

(*3*) An entry or alteration made under this section shall subject to the provisions of section 110, have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, or in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed ; and the tax or the enhanced tax as the case may be shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.

Notice to be given to the standing committee of demolition or removal of a building.

83. (*1*) When any building or any portion of a building which is liable to the payment of a rate on buildings or lands or both is demolished or removed, otherwise than by order of the standing committee, the person primarily liable for the payment of the said rate shall give notice thereof, in writing, to the Chief Officer.

(*2*) Until such notice is given the person aforesaid shall continue liable to pay every such rate as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

(*3*) Provided that nothing in this section shall apply in respect of a building or portion of a building which has fallen down or been burnt down.

New assessment-list need not be prepared every year.

84. (*1*) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Chief Officer may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(*2*) But the provisions of sections 80, 81 and 82 shall be applicable every year as if a new assessment list had been completed at the commencement of the official year.

Power of State Government to appoint persons to prepare and authenticate list in case of default by municipality.

[1]**[84A.** (*1*) Where in any year a new assessment list is prepared, or a list is revised, or the valuation and assessment contained in the list for the year immediately preceding is adopted with or without alteration, such new, revised or adopted assessment list shall be authenticated in the manner provided by section 81 at any time not later than the thirty-first day of July of the official year to which the list relates, and if it is not so authenticated, then the State Government shall appoint such person or persons as it thinks fit to prepare, revise or adopt and

[1] Section 84A was inserted by Bom. 53 of 1954, s. 10.

authenticate the assessment list, and thereupon such person or persons shall duly authenticate such list at any time before the last day of the official year to which such list relates, and sections 78 to 81 or section 84 shall, as far as may be, apply to the preparation, revision or adoption of the list, as the case may be, by the person or persons appointed by the State Government.

(*2*) Where the State Government appoints any person or persons for the purpose of preparing, revising or adopting and authenticating an assessment list under sub-section (*1*), the expenses incurred by such person or persons for such purpose and the reasonable remuneration payable to such person or persons shall be recovered by the State Government in the manner provided by section 218.]

Tax from whom primarily leviable.

85. A tax imposed in the form of a rate on buildings or land or both shall be leviable primarily from the actual occupier of the property upon which the tax is assessed if he is the owner of the property, or holds it on a building or other lease from the [1][[2][Government]] or from the municipality, or on a building lease from any person. Otherwise the tax shall be primarily leviable as follows, namely :—

(*a*) if the property is let from the lessor;

(*b*) if the property is sublet, from the superior lessor;

(*c*) if the property is unlet, from the person in whom the right to let the same vest :

Recovery from occupiers.

Provided that where the tax is based on the annual letting value, on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the property in respect of which it is due, as bears to the whole amount due the same ratio, which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said property, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list whichever of those two amounts is the greater :

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ord " Crown " was substituted for the words " Secretary of State for India in Council " by ation of Indian Laws Order in Council.
ord was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

Remedy of occupier in such case.

Provided further, that for any sum paid by or recovered from any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum.

Remission of tax in case of vacancies : when obligatory.

86. (*1*) Where any building or land which is assessed to a rate based on the annual letting value and payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year or portion of the year for which the rate is leviable, or throughout the period in respect of which any such instalment is payable, the standing committee shall remit or refund [1][not more than one half] of the amount of the rate, or of the cess or instalment of the cess, as the case may be.

Provided that no such remission or refund shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Chief Officer, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

When discretional.

(*2*) Where any such building or land as aforesaid—

(*a*) has been vacant and unproductive of rent for any period of not less than [2][ninety] consecutive days, or

(*b*) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(*c*) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value, the standing committee may remit or refund such portion, if any, of the rate, cess or instalment as it may think equitable.

Burden of proof on claimant.

(*3*) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

Explanatory clause.

(*4*) For the purposes of this section [3][(*a*) a dwelling-house within the limits of a municipal borough notified by [4][the [5][State] Government] as a hill station municipal borough shall be deemed to be vacant notwithstanding the fact that it contains the furniture habitually used in it, if otherwise unoccupied; and (*b*)] a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

Notice to be given to the Chief Officer of all transfers of title of persons primarily liable to payment of a rate on buildings or lands.

87. (*1*) Whenever the title of any person primarily liable for the payment of a rate on buildings or lands or both to or over such land or buildings or both is transferred, [6][the person whose title is so transferred and] the person to whom the same is transferred shall, within three months after execution of the instrument of transfer, or after its registration if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer in writing to the Chief Officer.

(*2*) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise, shall give notice of such transfer to the Chief Officer within one year from the death of the deceased.

(*3*) If the person liable to give the notice referred to in sub-section (*1*) or sub-section (*2*) fails to give such notice he shall be punished with fine which may extend to fifty rupees.

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[1] These words were substituted for the words "not less than two-thirds" by Bom. 35 of 1954, s. 27 (*1*).
[2] This word was substituted for the word "sixty" *ibid*, s. 27 (*2*).
[3] These words were inserted by Bom. 12 of 1931, s. 3 (*ii*).
[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] These words were inserted by Bom. 24 of 1936, s. 2, Schedule.

Form of notice.

88. (*1*) The notice to be given under the last preceding section shall be in the form of Schedule III or Schedule IV, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(*2*) On receipt of any such notice, the Chief Officer may, if he thinks it necessary, require the production of the instrument of transfer, if any, or a copy thereof, obtained under section 57 of the [1]Indian Registration Act, 1908. XVI of 1908.

Liability for payment of a rate on buildings or lands or both to continue in the absence of any notice of transfer.

89. (*1*) Every person primarily liable for the payment of a rate on buildings or lands or both who transfers his title to or over such building or land or both without giving notice of such transfer to the Chief Officer as aforesaid shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of the said rate on the buildings or lands or both until he gives such notice, or until the transfer shall have been recorded by the standing committee.

(*2*) But nothing in this section shall be held to diminish the liability of the transferee for the said rate or to affect the prior claim of the municipality on the said buildings and lands conferred by section 112, for the recovery of the rate on the lands or buildings or both.

(*3*) *Power to charge fees.*

Fees may be charged for certain licences.

90. (*1*) When any licence is granted under this Act, or when permission is given thereunder for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the municipality, the authority granting or giving such licence or permission may charge a fee for the same.

[2][Provided that when permission is given for putting up a projection, the authority giving such permission may charge every year a recurring fee until the projection is removed.]

Levy of fees for unauthorized occupation or projection.

(*2*) The municipality may charge a higher fee by way of penalty for any erection, or projection, or for the use or occupation of any public street or other land vested in the municipality, by any person without its permission or licence. Such fee shall be leviable irrespective of any other penalty or liability to which the person liable to pay the same may be subject under any other provision of this Act or any other law for the time being in force.

The rates of such higher fees shall be determined by rules.

Market and other fees.

(*3*) A Chief Officer may also charge such fees as may be fixed by by-laws under clause (*a*) of sub-section (*1*) of section 61, for the use of any such places mentioned in that clause as belong to the municipality and as may be fixed by by-laws under clause (*h*) of sub-section (*1*) of section 61 for stamping weights and measures.

(*4*) *Special provisions relating to certain taxes.*

Fixed charges and agreements for payment in lieu of taxes for water supplied.

91. (*1*) A municipality may, instead of imposing a water-rate or where a water-rate has been imposed, in individual cases, instead of levying a rate imposed in respect of the supply of water belonging to the municipality to or for use in connection with any private lands or buildings,—

(*a*) fix at rates not exceeding such as shall be specified in the rules in force under section 58, charges for such supply according to the quantity used, as ascertained by measurement ; or

(*b*) arrange with any person on his application to supply on payment, periodical or otherwise, water belonging to the municipality, in such quantities, or for such purposes, whether domestic, ornamental, or irrigational or for trade,

[1] Central Acts.

[2] This proviso was added by Bom. 36 of 1949, s. 14.

manufacture or any other purpose, on such terms and subject to such conditions as it shall fix by agreement with such person:

Provided that—

(*a*) the meters, connection-pipes and all other works necessary for and incidental to such supply, and all repairs, extensions an alterations of such works shall be under the control of the municipality and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the municipality, be defrayed by the persons liable for the charges or payments fixed in respect of such supply; and

(*b*) such supply of water shall be and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 61.

Power to fix a special rate in lieu of special sanitary cess.

(*2*) Where a municipality has made provision for the cleansing of any factory, hotel or club or any group of buildings or lands used for any one purpose and under one management, it may, instead of levying in respect thereof any special sanitary cess imposed under this Chapter, fix a special rate and the dates and other conditions for periodical payments thereof; such rate, dates and conditions shall be determined either,

(*i*) in accordance with the rules for the time being in force under section 58, or

(*ii*) by written agreement with the person who would have been otherwise liable for the cess: provided that in fixing the amount of such rate proper regard shall be had to the probable cost to the municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(*3*) Where a municipality has imposed a tax on vehicles or animals used for riding, draught or burden and kept for such use within the municipal borough it may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire for the payment of a lump sum for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

Recovery of sums claimed under this section.

(*4*) Every sum claimed by a municipality as due under sub-section (*1*) as charges, payments or expenses, or as a special rate under sub-section (*2*) or as a lump sum payable under sub-section (*3*), shall for the purposes of Chapter VIII be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of a tax recoverable under the said Chapter:

Provided that nothing in this section shall affect the right or power of a municipality to contract with any person to supply for use beyond the limits of the municipal borough, at such rates and on such conditions as the municipality may think fit, any quantity of water belonging to the municipality but not required for the purposes of this Act.

Taxes on pilgrims may be assigned in part to local boards.

92. Where a tax is imposed under this Act on pilgrims resorting periodically to a shrine within the limits of a municipal borough, the Commissioner may require the municipality of such borough to assign and pay to the district local board or to the taluka local board having authority in the taluka in which such municipal borough is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit: and the portion so assigned shall be expended by the said board or boards, within the areas respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

(*5*) *Octroi and Tolls.*

Octroi by-laws to be submitted with proposal for imposition of octroi.

93. A municipality, when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (*n*) of sub-section (*1*) of section 61, after observing the requirements of sub-sections (*2*) and (*3*) of that section.

Power to examine articles liable to octroi.

94. (*1*) A person bringing into or receiving from beyond the octroi limits of a municipal borough any animal or goods on which octroi is payable shall, when required by an officer authorized in this behalf by the Chief Officer and so far as may be necessary for ascertaining the amount of tax chargeable,—

(*a*) permit that officer to inspect, examine, weigh, and otherwise deal with such animal or goods; and

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to such animal or goods;

(*c*) make a declaration in writing to that officer regarding the correctness and accuracy of the document shown to him.

Power to search where octroi is leviable.

(*2*) If any person bringing into or receiving from beyond the octroi limits of a municipal borough in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the Chief Officer in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistate or such officer of the municipality as [1][the Provincial Government] appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Presentation of bills for octroi.

95. An officer demanding octroi by the authority of the municipality shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed, and the rate at which the tax is calculated.

Penalty for evasion of octroi.

96. Where any animal or goods passing into a municipal borough are liable to the payment of octroi, any person who, with the intention of defrauding the municipality, causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of the said borough any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the amount of such octroi or to fifty rupees, whichever may be greater.

Tables of tolls to be shown on demand.

97. A municipality imposing any toll under this Act shall cause to be kept at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments; and it shall be the duty of every person authorized to demand payment of a toll, to show such table on the request of any person from whom such demand is made.

Power to seize vehicle or animal or goods on non-payment of octroi or toll.

98. (*1*) In the case of non-payment on demand of any octroi or of any toll leviable by a municipality, any person appointed to collect such octroi or toll may seize any animal or goods on which octroi is chargeable, or any vehicle or animal on which the toll is chargeable or any part of the burden of such vehicle or animal which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or thing seized, a list of the property together with a written notice in the form of Schedule VII.

Power to sell property seized at once.

(*2*) When any property seized is subject to speedy decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such property may inform the person in whose possession it was that it will be sold at once; and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council

(*3*) If at any time before a sale has begun, the person from whose possession the property has been seized, tenders at the municipal office the amount of all expenses incurred and of the octroi or toll payable, the Chief Officer shall forthwith deliver to him the property seized. Release of property on payment.

(*4*) If no such tender is made, the property seized may be sold, and the proceeds of such sale shall be applied in payment of such octroi, or toll and the expenses incidental to the seizure, detention and sale. Sale.

(*5*) The surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Chief Officer in writing within three years next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made, shall be the property of the municipality. Surplus how dealt with.

99. The standing committee, if it thinks fit, instead of requiring payment of octroi due from any person, mercantile firm or public body to be made at the time when the animals or goods in respect of which the octroi is leviable are introduced within the octroi limits of the municipal borough, may at any time direct that an account-current shall be kept on behalf of the municipality of the octroi so due from such person, firm or body. Such account shall be settled at intervals not exceeding one month, and such person, firm or public body shall give such information or details and make such deposit or furnish such security as the standing committee or any officer authorized by it in this behalf shall consider sufficient to cover the amount which may at any time be due from such person, firm or body in respect of such dues. Any amount so due at the expiry of any such interval shall, for the purposes of Chapter VIII, be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable under the said Chapter. Power to keep account-current with person, firm or public body in lieu of levy in octroi on introduction of goods.

100. Where any agreement such as is referred to in clause (*b*) of sub-section (*1*) of section 47 has been entered into such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of [1][the Act under which that body is constituted] relating to octroi shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of [2][that body]; and the collections made and the costs, thereby incurred shall, subject to the provisions of section 44, be divided between the bodies entering into the agreement, in such proportions as shall have been determined in the agreement. Collection of octroi by one public body on behalf of others.

101. (*1*) It shall be lawful for a municipality to lease by public auction or private contract the levy of any toll that may be imposed under this Act: Farming of tolls.

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(*2*) Where any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, execute the powers and perform the duties conferred and imposed by sub-sections (*1*) and (*2*) of section 98 on a person appointed to collect a toll, and any property seized shall be dealt with as if it had been seized under the provisions of that section: Persons employed by lessee of toll to have power of seizure.

Provided that no property seized may be sold except under the orders of the Chief Officer.

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[1] The words " the Act under which that body is constituted " were substituted for the words " this Act " by Bom. 14 of 1934, s. 4 (*2*) (*i*).

[2] The words " that body " were substituted for the words " the body by which they are so established ", *ibid*,. s. 4 (*2*) (*ii*).

(6) Powers of Provincial Government in respect of municipal taxes.

Power of Provincial Government to suspend levy of objectionable taxes.

102. If it shall at any time appear to [1][the Provincial Government] on complaint made or otherwise that any tax leviable by a municipality is unfair in its incidence, or that the levy thereof or of any part thereof is obnoxious to the interest of the general public, it may require the municipality, within such period as [1][the Provincial Government] shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax; and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of [1][the Provincial Government], it may, by notification in the [2][*Official Gazette*], suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

[1][The Provincial Government] may at any time, by a like notification, rescind any such suspension.

Power of Provincial Government to require municipalities to impose taxes.

103. Where it appears to [1][the Provincial Government] that the balance of the municipal fund of a municipality is insufficient for meeting any expenditure incurred under section 215 or for the performance of any duties for the performance of which [1][the Provincial Government] has directed the Commissioner to fix a period under section 218 [1][the Provincial Government] may by notification require the municipality to impose, within the municipal borough, any tax specified in the notification which may be imposed under section 73 and which is not at the time imposed within the said borough or to enhance any existing tax in such manner or to such extent as [1][the Provincial Government] considers fit; and the municipality shall forthwith proceed to impose or enhance, in accordance with the requisition, such tax under the provisions of this Chapter as if a resolution of the municipality had been passed for the purpose under section 75:

Provided that—

(*a*) [1][the Provincial Government] shall take into consideration any objection which the municipality or any inhabitant of the municipal borough may make against the imposition or enhancement of such tax;

(*b*) it shall not be lawful for the municipality to abandon or modify or to abolish such tax when imposed;

(*c*) [1][the Provincial Government] may at any time cancel or modify any requisition made by it under this section and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

CHAPTER VIII.

Recovery of Municipal Claims.

Presentation of bill for taxes.

104. (*1*) When any amount,

(*a*) which by or under any provisions of this Act, is declared to be recoverable in the manner provided by this Chapter, or

(*b*) which, not being leviable under sub-section (*1*) of section 98 or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal borough,

shall have become due, the Chief Officer shall, with the least practicable delay, cause to be presented to any person liable for the payment thereof, a bill for the sum claimed as due.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid*

(*2*) Every such bill shall specify the period of which, and the property, occupation or thing in respect of which the sum is claimed and shall also give notice of the liability incurred in default of payment and of the time within which an appeal may be preferred as hereinafter provided against such claim. Contents of bill.

[1][(*3*) If the person to whom a bill has been presented as aforesaid does not, within fifteen days from the presentation thereof, either—

(*a*) pay the sum claimed as due in the bill, or

(*b*) show cause to the satisfaction of the Chief Officer why he is not liable to pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 110 against the claim,

the Chief Officer may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule V or to the like effect.]

105. (*1*) If the person on whom a notice of demand has been served under section 104, sub-section (*3*), does not, within fifteen days from the service of such notice, [2][pay the sum demanded in the notice], such sum with all costs of the recovery may be levied under a warrant signed by the Chief Officer in consultation with the President in the form of Schedule VI or to the like effect, by distress and sale of the moveable property or the attachment and sale of the immovable property of the defaulter : provided that where any measures precautionary or otherwise, have been taken in respect of any such property for the recovery of any sum claimed by [3][the [4][State] Government], any proceedings under this Chapter in respect of such property shall abate. In what cases warrant may issue.

[5][(*2*) (*a*) Where the property is in the municipal borough, the warrant shall be addressed to an officer of the municipality ; To whom warrant should be addressed.

(*b*) where the property is in another municipal borough or in a municipal district, the warrant shall be addressed to the Chief Officer of the municipal borough or to the Vice-President of the municipality, as the case may be ;

(*c*) where the property is within the limits of a Corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949, the warrant shall be addressed to the Municipal Commissioner of such Corporation ; Bom. LIX of 1949.

(*d*) where the property is in a cantonment, the warrant shall be addressed to the Executive Officer of the cantonment ;

(*e*) where the property is not within the limits of such Corporation or a municipal borough, municipal district or cantonment, the warrant shall be addressed to a Government Officer not lower in rank than a Mahalkari ;

(*f*) where the property is in Greater Bombay, the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay :

Provided that such Chief Officer, Vice-President, Municipal Commissioner, Executive Officer, Government Officer or Registrar may endorse such warrant to a subordinate officer.]

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[1] This sub-section was substituted for the original by Bom. 36 of 1949, s. 15.

[2] These words were substituted for the portion beginning with the word " either " and ending with the words " against the demand "; *ibid*, s. 16.

[3] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] Sub-section (*2*) was substituted for the original by Bom. 26 of 1953, s. 23.

Power of entry under special order.

(*3*) It shall be lawful for any officer to whom a warrant issued under sub-section (*1*) is addressed or endorsed, if the warrant contains a special order authorizing him in this behalf, to break open at any time between sunrise and sunset any outer or inner door or window of a building, in order to make any distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance :

Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention and has given such women an opportunity to remove.

Warrant how to be executed.

(*4*) It shall also be lawful for any such officer, if authorized by the warrant, to distrain, wherever it may be found, any moveable property or attach any immovable property of the person named in the warrant issued under sub-section (*1*) as defaulter, subject to the following conditions, exceptions and exemptions, namely :—

(*a*) the following property shall not be distrained :—

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(*ii*) the tools of artizans,

(*iii*) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood ;

(*b*) the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant ; and if any property has been distrained which, in the opinion of the Chief Officer or of the person to whom the warrant was addressed, should not have been so distrained, it shall forthwith be returned to the defaulter ;

(*c*) the officer shall on distraining or attaching the property forthwith make an inventory thereof and give to the person in possession thereof at the time of distraint or attachment a written notice in the form of Schedule VII ;

(*d*) (*i*) when the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge ;

(*ii*) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and then upon a conspicuous part of the municipal office, and also, when the property is land paying revenue to [1][the [2][State] Government], in the office of the Collector of the district in which the land is situate ;

(*e*) any transfer of or charge on the property attached or of any interest therein made without the written permission of the Chief Officer shall be void as against all claims of the municipality enforceable under the attachment ;

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Sale of goods distrained in special cases.

106. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the Chief Officer shall at once give notice to the person in whose possession the property was when distrained, to the effect that it will be sold at once ; and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Sale of property distrained or attached; application of proceeds of sale.

(*2*) If not sold at once under sub-section (*1*), the property distrained or attached or in the case of immovable property a sufficient portion thereof may, unless the warrant is suspended by the Chief Officer or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress or attachment and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Chief Officer, and the proceeds or such part thereof as shall be requisite, shall be applied firstly in discharge of any sum due to [1][the [2][State] Government] in respect of such property and secondly in discharge of the sum due and of all such incidental costs as aforesaid. Where the sum due together with costs is paid by the defaulter as aforesaid, the attachment if any of immovable property shall be deemed to have been removed. Sales of immovable property under this sub-section shall be held in the manner laid down in the rules framed in that behalf.

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[1] These words were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Law Order, 1950.

[1][(*2A*) After sale of the immovable property by auction as aforesaid, the Chief Officer shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(*2B*) It shall be lawful for the municipality to offer a nominal bid in the case of any immovable property put up for auction, provided the previous approval of the Collector is obtained to such bidding.]

Surplus, if any, how dealt with.

(*3*) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person in whose possession the property was at the time of distraint or attachment; if such person shall claim the surplus by written application to the Chief Officer within three years from the date of the notice given under this sub-section, the Chief Officer shall refund the surplus to such person. Any sum not claimed within [2][three years] from the date of such notice shall be the property of the municipality.

Sale outside the district.

107. Where the warrant is addressed outside the municipal borough the Chief Officer may by endorsement direct the officer or Registrar of the Court of Small Causes of Bombay to whom the warrant is addressed, to sell the property distrained or attached; in such case it shall be lawful for such officer or Registrar to sell the property and to do all things incidental to the sale in accordance with the provisions of section 106, and to exercise the powers and perform the duties of the Chief Officer under section 106, sub-sections (*1*) and (*2*), in respect of such sale except the power of suspending the warrant. Such Officer or Registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the Chief Officer by whom it was issued who shall dispose of the same in accordance with the provisions of section 106.

Fees and costs chargeable.

108. Fees for every notice issued under sub-section (*3*) of section 104 [3][every warrant issued under sub-section (*1*) of section 105 or distress or attachment made under sub-section (*4*) of the said section], and the maintenance of any live-stock seized under the said sub-section shall be chargeable at the rates respectively specified in such behalf in the rules of the municipality and shall be included in the costs of recovery to be levied under section 105.

Summary proceedings may be taken against persons about to leave the borough.

109. (*1*) If the Chief Officer shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this Chapter is due or is about to become due, is about forthwith to remove from the municipal borough, the Chief Officer may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(*2*) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him the amount shall be leviable by distress and sale of the moveable property or the attachment and sale of the immoveable property of the defaulter in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the Chief Officer's warrant for distress and sale may be issued and executed without any delay.

Appeals to Magistrates.

110. (*1*) Appeals against [4][any claim included in a bill presented under sub-section (*1*) of section 104] may be made to any [5][Judicial Magistrate or Bench of such Magistrates] by whom under the direction of the [6][Session Judge] such class of cases is to be tried.

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[1] Sub-sections (*2A*) and (*2B*) were inserted by Bom. 36 of 1949, s. 17.
[2] These words were substituted for the words "one year" by Bom. 4 of 1930, s. 4.
[3] These words were substituted for the words "every distress or attachment made under sub-section (*4*) of section 105" by the Bom. 12 of 1931, s. 3 (*iii*).
[4] These words, brackets and figures were substituted for the words, brackets and figures "any notice of demand issued under sub-section (*3*) of section 104" by Bom. 36 of 1949, s. 18(*i*).
[5] These words were substituted for the words "Magistrate or Bench of Magistrates" by Bom. 8 of 1954, s. 2, Schedule—Part III.
[6] These words were substituted for the words, "District Magistrate", *ibid.*

(*2*) No such appeal [1][shall be entertained] unless—

(*a*) the appeal is brought within fifteen days next after [2][the presentation of the bill] complained of ; and

(*b*) an application in writing, stating the grounds on which the claim of the municipality is disputed, has been made to the standing committee as follows :—

(*i*) in the case of a rate on buildings or lands or both within the time fixed in the notice given under section 81 or 82 of the assessment or alteration thereof, according to which the bill is prepared,

[3]* * * * * * ; and

(*c*) the amount claimed from the appellant has been deposited by him in the municipal office.

[4][(*3*) The decision of the Magistrate or Bench of Magistrates in any appeal made under sub-section (*1*) shall, at the instance of either party, be subject to revision by the Court to which appeals against the decision of such Magistrate or Bench ordinarily lie.]

Entries in the assessment list and taxes and decisions to be final.

111. [5][(*1*) Every entry in the assessment list made under the provisions of this Act against which no objection is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and subject to the provisions of sub-section (*3*) of section 110 the decision of the Magistrate or Bench of Magistrates upon any appeal shall be final.]

(*2*) Effect shall be given by the Chief Officer to every decision of the said Magistrate or Bench of Magistrates on any appeal or any decision in revision on such appeal against any such entry or tax.

Liability of land, buildings, etc. for rates.

112. All sums due on account of any tax imposed in the form of a rate on lands or buildings or both shall, subject to prior payment of land-revenue, if any, due to [6][Government] thereupon, be a first charge upon the building or land, in respect of which such tax is leviable and upon the moveable property, if any, found within or upon such building or land, and belonging to any person liable for such tax :

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner if such arrears have been due for more than one year or for a period during which such occupier was not in occupation.

Receipts to be given for all payments.

113. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving such payments.

CHAPTER IX.

MUNICIPAL POWERS AND OFFENCES.

(*1*) *Powers in respect of street.*

Power regarding public streets.

114. (*1*) It shall be lawful for a municipality to lay out and make new public streets ; to construcs tunnels and other works subsidiary to public streets ; to widen, open, enlarge or otherwise improve, and to turn, divert, discontinue or stop up any public street ; and, subject to the provisions of sub-section (*2*) of section 48 to lease or sell any such land, theretofore used or acquired by the municipality for the purposes of such streets, as may be not required for any public street or for any other purposes of this Act :

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[1] These words were substituted for the words "shall be heard and determined" by Bom. 35 of 1954, s. 28.

[2] These words were substituted for the words "service of the notice of demand" by Bom. 36 of 1949, s. 18(*ii*).

[3] The portion beginning with "(*ii*)" and ending with "such bill" was deleted, *ibid.*

[4] This sub-section was added, *ibid*, s. 18 (*iii*).

[5] This sub-section was substituted for the original, *ibid*, s. 19.

[6] This word was substituted for the words "His Majesty" by the Adaptation of Laws order, 1950.

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(2) In laying out, making, turning, diverting, widening, opening, enlarging or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the municipality may purchase the land required for the construction of houses and buildings to form the said street ; and, subject to the provisions contained in sub-section (2) of section 48, may sell and dispose of such additional land in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as it may think fit. Acquisition of adjacent land to form street.

115. (1) Where the standing committee considers that in any street not being a public street, or in any part of such street, within the municipal borough, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the standing committee may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice. Power to require repair, etc. of private streets.

(2) After such work has been carried out by such owners or, as provided in section 194 by the municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the standing committee, to be a public street. And to declare such streets public.

(3) If the notice under sub-section (1) is not complied with and such work is executed by the municipality as provided in section 194, the expenses thereby incurred shall be apportioned by the standing committee between such owners in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of any such lands or buildings. Apportionment of expenses in default.

116. The standing committee may, at any time, by notice fixed up in any street or part of a street not maintainable by the municipality, give intimation of its intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of the several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the municipality may by notice in writing put up in such street, or such part, declare the same to be a public street. Power to declare any street a public street subject to objections by the owners.

117. (1) Every person intending to lay out or make any new street, shall give notice in writing thereof to the Chief Officer and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, and such other particulars as may be required by the by-laws in force in this behalf ; and save as hereinafter provided, the level, means of drainage, direction and width of every such street shall be fixed or approved by the standing committee. New private streets.

(2) Before passing orders under sub-section (1), the standing committee may either issue a provisional order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with or a demand for further particulars. Power of municipality to pass interim orders.

[1] Proviso to sub-section (1) of section 114 was deleted by Bom. 35 of 1955, s. 21.

Right to proceed in certain cases.

(*3*) If—

(*a*) within one month from the receipt of the notice given under sub-section (*1*) the standing committee has neither—

(*i*) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (*1*) with regard to level, means of drainage, direction and width of the street, nor

(*ii*) under sub-section (*2*) issued any provisional order or demand for further particulars, or if

(*b*) the standing committee, having issued such demand for and having received in accordance with the demand such further particulars, has issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice under sub-section (*1*) and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

Penalty.

(*4*) Whoever lays out or makes any such street either without giving the notice required by sub-section (*1*) or, except in accordance with the provisions of sub-section (*3*), without awaiting, or otherwise than in accordance with the instructions issued by the standing committee, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to two hundred and fifty rupees ; and the standing committee may cause any street so laid out or made to be altered, and any building constructed in such street to be altered or removed and the expense thereby incurred shall be paid to it by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

The regular line of a public street.

118. (*1*) The Chief Officer shall subject to the approval of the municipality prescribe a line on each side of every public street within the municipal borough and may from time to time prescribe a fresh line in substitution for any line so prescribed or for any part thereof :

Provided that-

(*a*) at least one month previous to prescribing such line or such fresh line, as the case may be, the Chief Officer shall give public notice of the proposal and shall put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed ;

(*b*) the Chief Officer shall comply with any orders passed by the municipality after considering any written objection or suggestion in regard to such proposal, delivered at the office of the municipality within such time as may be specified in such public or special notice.

(*2*) The line for the time being so prescribed shall be called " the regular line of the public street ".

(*3*) (*a*) Except under the provisions of section 143 no person shall construct or reconstruct any portion of any building within the regular line of the public street without the permission of the Chief Officer under section 123.

(*b*) Where the Chief Officer refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall with the approval of the municipality be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the municipality.

(*c*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198, shall be paid by the municipality to the owner of any land added to a street under clause (*b*) of sub-section (*3*) for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken or order passed by the Chief Officer under the said sub-section :

Provided that no such compensation shall be payable in cases to which section 149 applies.

(*4*) Whoever contravenes the provisions of sub-section (*3*) shall be punished with fine which may extend to one thousand rupees and, in the case of a continuing contravention with an additional fine which may extend to rupees ten for every day during which such contravention continues after the conviction for the first such contravention, and the Chief Officer may—

(*a*) direct that the building be stopped, and

(*b*) with the previous sanction of the standing committee, by written notice, require such building or portion thereof to be altered or demolished in accordance with the provisions of such notice.

(*2*) *Powers to regulate buildings, etc.*

Setting back projecting buildings.

119. (*1*) If any part of a building projects beyond the regular line of a public street as prescribed under section 118 or beyond the front of the building on either side thereof, the municipality may,—

(*a*) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(*b*) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projection part has been taken down or burned down or has fallen down,

require by written notice either that the part or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed ; or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. The portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the municipality.

Acquisition of land which is within the regular line of a street and open or occupied only by platforms, etc.

(*2*) If any land not vested in the municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other structure external to a main building, the municipality after giving the owner of the land not less than fifteen clear days' written notice of his intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same ; and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the municipality.

Compensation payable by the municipality.

(*3*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198 shall be paid by the municipality to the owner of any land added to a street under sub-section (*1*) or acquired under sub-section (*2*), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in

consequence of any action taken by the municipality under either of the said sub-sections : provided that no such compensation shall be payable in cases to which section 149 applies.

(*4*) When the amount of compensation has been so ascertained and determined, or when a ruinous or dangerous building falling under sub-section (*1*) has been taken down under the provisions of section 149 the municipality may, after tendering the amount of compensation, if any, as may be payable, take possession of the land so added to the street, and, if necessary, may clear the same.

Setting forward to regular line of street.

120. (*1*) The standing committee may, upon such terms as it thinks fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

(*2*) If the land which will be included in the premises of any person permitted under sub-section (*1*) to set forward a building belongs to the municipality, the permission of the standing committee to set forward the building shall be a sufficient conveyance to the said owner of the said land ; and the price to be paid to the municipality by the said owner for such land and the other terms and conditions of the conveyance shall be set forth in the said permission.

Roofs and external walls of buildings not to be made of inflammable materials.

121. (*1*) The external roofs and walls of buildings constructed or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable material except with the written consent of the Chief Officer which may be given either specially in individual cases, or generally in respect of any area specified therein.

Power to require removal of roof and wall if inflammable.

(*2*) The Chief Officer may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the Chief Officer.

(*3*) An appeal shall lie to the standing committee against any order of the Chief Officer refusing the consent under sub-section (*1*) or against any notice given by the Chief Officer under sub-section (*2*) if made within fifteen days of the receipt of such refusal or notice, as the case may be.

Penalty.

(*4*) Whoever without such consent as is required by sub-section (*1*), makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (*2*) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day on which the offence is continued after the date of the first conviction.

Level of buildings.

122. No building shall hereafter be constructed upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the municipality, or into some stream or river or into the sea or some cesspool or other suitable place which may be approved of by the Chief Officer.

Notice of new buildings.

123. (*1*) Before beginning to construct any building or to alter externally or add to any existing building, or to construct or reconstruct any projecting portion of a building in respect of which the standing committee is empowered by section 119 to enforce a removal or setback, or to construct or reconstruct which the Chief

Officer is empowered by section 118 to give permission, the person intending so to construct, alter, add or reconstruct shall give to the Chief Officer notice thereof in writing and shall furnish to him at the same time, if required by a by-law or by special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Chief Officer, and all information required by the by-laws or demanded by the Chief Officer regarding the limits, design, ventilation, and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets, and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, and the purpose for which the building will be used.

Power of Chief Officer to pass orders.

(*2*) Save as otherwise provided in this Act or the rules and by-laws thereunder, the Chief Officer may either give permission to construct, alter, add or reconstruct, according to the plan and information furnished or may impose in writing conditions, in accordance with this Act and the rules and by-laws made thereunder, as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation or to the number of storeys to be erected, or with reference to the location of the building in relation to any street existing or projected, or the purpose for which the building is to be used, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to his satisfaction.

(*3*) The municipality may, before any work has been commenced in pursuance of any permission granted by the Chief Officer under sub-section (*2*), revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the rules and by-laws made thereunder, with reference to the matter mentioned in the said sub-section, as it thinks proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

Or to suspend the work or require further particulars.

(*4*) Before issuing any orders under sub-section (*2*), the Chief Officer may, within one month from the receipt of such notice, either issue—

(*a*) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) may demand further particulars.

Right to proceed in certain cases.

(*5*) A work proposed in a notice given under sub-section (*1*) may be proceeded with in the manner specified in such notice, provided such manner is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, namely :—

(*a*) in case the Chief Officer within one month from the receipt of the notice given under sub-section (*1*) has neither—

(*i*) passed orders under sub-section (*2*) and served notice thereof in respect of the intended work ; nor

(*ii*) issued under sub-section (*4*) any provisional order or any demand for further particulars ;

(*b*) in case the Chief Officer having issued such demand for and having received such further particulars, has issued no further orders within one month from the receipt of such particulars.

Commencement of work.

(*6*) No person who becomes entitled under sub-section (*2*) or (*5*) to proceed with any intended work of which notice is required by sub-section (*1*) shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-sections (*1*) to (*5*). And no person to whom permission to erect or alter or add to any building has been granted by the municipality under section 96 of the Bombay District Municipal Act. 1901, shall be entitled to commence such work after the expiry of one year from the date on which this Act comes into force. Bom. III of 1901.

(*7*) Whoever begins any construction, alteration, addition or reconstruction without giving the notice required by sub-section (*1*) or without furnishing any plan, information or particulars required by or under this section, or, except as provided in sub-section (*5*), without awaiting or in any manner contrary to such legal orders of the Chief Officer as may be issued under this section or contrary to the provisions of sub-section (*5*) or (*6*) or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees ; and in the case of a continuing contravention of any of the aforesaid provisions, he shall be liable to an additional fine which may extend to ten rupees. for each day during which such contravention continues after conviction for the first such contravention ; and the Chief Officer may—

(*a*) direct that the construction, alteration, addition or reconstruction be stopped, and

(*b*) upon a conviction being obtained under sub-clause 7 by written notice, require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.

(*8*) The Chief Officer may at any time inspect any work of which notice is required by sub-section (*1*) without giving notice of his intention to do so ; and at any time during the execution of any such work as aforesaid, may, by written notice, specify any matter in respect of which the execution of such work is in contravention of any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under this section ; and require the person executing such work to cause anything done contrary to any such provision or by-law or order to be amended or to do anything which by any such provision or by-law or order he is required to do but wh ch has been omitted.

Explanation.—The expression " to construct a building " throughout this Chapter includes—

(*a*) any material alteration, enlargement or reconstruction of any building, or of any wall [1][including compound wall and fencing], verandah, fixed platform, plinth, doorstep or the like, whether constituting part of a building or not,

(*b*) the conversion into a place for human habitation of any building not originally constructed for human habitation,

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

[1] These words were inserted by Bom. 36 of 1949, s. 20.

(*d*) the conversion of two or more places of human habitation into a greater number of such places,

(*e*) such alterations of the internal arrangements of a building, as affect its drainage, ventilation or other sanitary arrangements, or its security or stability, and

(*f*) the addition of any rooms, buildings, or other structures to any building, and a building so altered, enlarged, reconstructed, converted or added to, is throughout this Chapter included under the expression " a new building ".

Power of Municipality to refuse permission.

[1][**123A.** (*1*) When a person has given notice to the Chief Officer under sub-section (*1*) of section 123 in regard to his intention to build, add to or reconstruct a building, it shall be lawful to the Chief Officer to refuse the permission applied for if the municipality passes a resolution proposing to acquire the land on which any building is proposed to be erected or any building situated on which is proposed to be altered, added to or reconstructed.

(*2*) Such refusal shall be subject to the following conditions :—

(*a*) if the property is acquired and no agreement is arrived at as regards the amount of compensation payable to the person giving notice under sub-section (*1*) of section 123, the same shall be determined in accordance with the provisions of section 198 regard being had to the likely benefit which would have accrued to such person if the permission had not been refused ;

(*b*) if within a period of six months from the date of the resolution of the municipality proposing to acquire the land, the land is not acquired by the municipality by agreement upon payment, or if within such period, an application has not been made to the Collector for the institution of proceedings for compulsory acquisition under the provisions of the Land Acquisition Act, 1894, or if the municipality abandons the proposal to acquire the land, the notice given under sub-section (*1*) of section 123 shall be deemed to have been revived with effect from the date on which the said period of six months expires, or with effect from the date on which the decision of the municipality to abandon the proposal is arrived at, as the case may be. Such decision shall be communicated to the person giving notice within fifteen days from the date of the decision ; and the notice shall be dealt with as if the municipality had not passed a resolution to acquire the land. The municipality shall be liable to pay compensation to the said person in respect of the loss which he may prove to have incurred by reason of the municipality's refusal to grant the permission :

I of 1894.

Provided that the municipality shall not be liable to pay compensation if the notice under sub-section (*1*) of section 123 is given subsequent to the passing of the resolution by the municipality to acquire the land.]

Completion certificates ; permission to occupy or use.

124. (*1*) Every person erecting a building or executing a work as described in sub-section (*1*) of section 123 shall, within one month after the completion of the erection of such building or the execution of such work, deliver or send or cause to be delivered or sent to the Chief Officer at his office, notice in writing of such completion, and shall give to the Chief Officer all necessary facilities for the inspection of such building or of such work :

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[1] This section was inserted by Bom. 36 of 1949, s. 21.

Provided that—

(*a*) such inspection shall be commenced within seven days from the date of receipt of the notice of completion ; and

(*b*) the Chief Officer may, not later than one month from the date of receipt of the notice of completion by written intimation addressed to the person from whom the notice of completion was received, and delivered at his address as stated in such notice or, in the absence of such address, affixed to a conspicuous part of the building to which such notice relates,

(*i*) give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or

(*ii*) refuse such permission in case such building has been erected or such work executed so as to contravene any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 123 intimating to the person who gave the notice under sub-section (*1*) of section 123 the reasons for such refusal and requiring such person, or, if the person responsible for giving notice under sub-section (*1*) of section 123 is not at the time of such notice the owner of such building or work, then such owner to cause anything which is contrary to any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 123 to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

(*2*) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any such work, until

(*a*) the permission referred to in proviso (*b*) to sub-section (*1*) has been received, or

(*b*) the Chief Officer has failed for one month after the receipt of the notice of completion to intimate as aforesaid his refusal of the said permission.

(*3*) Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to one hundred rupees and, in the case of a continuing contravention or non-compliance, with an additional fine which may extend to ten rupees for every day during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.

Regulation of huts.

125. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the Chief Officer ; the Chief Officer may require such huts or sheds to be built so that they stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the Chief Officer may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage ; and may require such huts to be provided with such number of privies and such means of drainage as he may deem necessary. If any hut or shed or range or block be built without such notice being given to the Chief Officer or otherwise than as required by the Chief Officer, the Chief Officer may give written notice to the owner or builder thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable

time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Chief Officer may think fit.

Improvement of huts.

126. (*1*) Where the standing committee is of opinion that any hut or shed whether used as a dwelling or as a stable or for any other purpose, and whether existing at the time when this Act comes into operation or subsequently erected, is by reason—

(*a*) of insufficient ventilation or of the manner in which such hut or shed is crowded together with other huts or sheds, or

(*b*) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(*c*) of the impracticability of scavenging,

attended with risk of disease to the inhabitants of the neighbourhood, it shall cause a notice to be affixed to some conspicuous part of such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the standing committee in this behalf, to take down and remove such hut or shed, or to carry out such alterations or works as the standing committee may deem necessary for the avoidance of such risk.

(*2*) Where any such owner or occupier refuses or neglects to take down and remove such hut or shed or to carry out such alterations or works within the time appointed, the Chief Officer may cause such hut or shed to be taken down, or such alterations or works to be carried out, in accordance with the requirements of the standing committee.

(*3*) Where such hut or shed is taken down by the Chief Officer, the said officer shall cause the materials of the hut or shed to be sold, if such sale can be effected ; and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner is unknown or the title disputed, shall be held in deposit by the municipality until the person interested therein shall obtain an order of a competent Court for the payment of the same :

Provided always that where a hut or shed, existing at the time when the land on which it is situate first became part of a municipal district or borough, is taken down and removed under this section, compensation shall further be paid to the owner or owners thereof and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 198.

(*3*) *Powers connected with drainage, etc.*

Municipal control over drains, etc.

127. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal borough shall be under the survey and control of the municipality.

(*2*) All covered sewers, drains, and cesspools, whether public or private, shall be provided by the municipality or other persons to whom they severally belong, with proper traps or other means of ventilation ; and the Chief Officer may by written

notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

Powers for making and repairing drains.

128. (*1*) It shall be lawful for a municipality for any drainage purposes to carry any drain, sewer, conduit, tunnel, culvert, pipe or watercourse through, across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal borough.

(*2*) A municipality, or any person acting under its authority, may construct a new drain in the place of an existing drain in any land wherein any drain vested in the municipality has been already constructed, or repair or alter any drain vested in the municipality.

(*3*) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall in case of dispute be ascertained and determined in the manner provided in section 198 shall be paid by the municipality to any person who sustains damage by the exercise of such power.

Power to require sufficient drainage of houses.

129. (*1*) If any building or land be at any time undrained, or not drained to the satisfaction of the Chief Officer, the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as he may think necessary for the drainage of such building or land into—

(*a*) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(*b*) a covered cesspool to be provided by such owner and approved by the Chief Officer.

New buildings not to be erected without drains.

130. (*1*) It shall not be lawful to construct or reconstruct any building, or to occupy any building newly constructed or reconstructed, unless and until—

(*a*) a drain be constructed of such size, materials and description, at such level and with such fall, as shall appear to the Chief Officer to be necessary for the effectual drainage of such building;

(*b*) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may appear to the Chief Officer to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land, and of effectually flushing the drain of the said building and every fixture connected therewith.

(*2*) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place set apart by the municipality for the discharge of drainage, situate at a distance not exceeding fifty feet from such building; but if there is no such drain or place within that distance, then such drain shall empty into a cesspool provided by the owner of such building and approved by the Chief Officer.

Powers of owners and occupiers of buildings or lands to drain into municipal drains.

131. (*1*) The owner or occupier of any building or land within the municipal borough shall be entitled to cause his drains to empty into a municipal drain : provided that he first obtains the written permission of the Chief Officer, and that he complies with such conditions as the Chief Officer may prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the municipality and drains which are so vested.

(*2*) An appeal shall lie to the standing committee against any order of the Chief Officer under sub-section (*1*) if made within fifteen days of the receipt of such order.

Right to carry drain through land or into drain belonging to other persons.

132. (*1*) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain to be constructed through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Chief Officer.

(*2*) Subject to the control of the standing committee the Chief Officer thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in his opinion insufficient, by an order in writing authorize the applicant to carry his drain into, through, or under the said land. or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to him to be adequate and equitable.

(*3*) Every such order shall be a competent authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner, occupier or user of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner, occupier, or user reasonable notice in writing, to enter upon the land specified in the said order with assistants and, workmen at any time between sunrise and sunset and, subject to all provisions of this Act, to do all such work as may be necessary :

(*a*) for the construction or connection of the drain, as may be authorised by the said order ;

(*b*) for renewing, repairing. or altering the same as may be necessary from time to time ; or

(*c*) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

(*4*) In executing any work under this section as little damage as possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall—

(*a*) cause the work to be executed with the least practicable delay ;

(*b*) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any buildng or other construction opened, broken up or removed for the purpose of executing the said work ; and

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

Rights of owner of land through which drain is carried in regard to subsequent building thereon.

133. If the owner of any land into, through or under which a drain has been carried under section 132 whilst such land was unbuilt upon, shall at any subsequent time desire to construct a building thereon, the Chief Officer subject to the control of the standing committee shall, if he sanctions the construction of such building, by written notice require the owner or occupier of the building or land, for the benefit of which such drain was constructed, to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as he may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Provision of privies, etc.

134. (*1*) Where the Chief Officer is of opinion that any privy or cesspool, or additional privies or cesspools, should be provided in or on any building or land, or in any municipal borough in which with the approval of the sanitary board, a water-closet system has been introduced, [1][that water-closets or additional water-closets should be provided in or on any building or land, or that water-closets should be substituted for the existing privies in such number as may be considered necessary by him,] the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner of such building, or land to provide such privies, cesspools or water-closets [2][or to substitute water-closets for the existing privies] at such sites as he may deem proper.

(*2*) The Chief Officer subject to the control of the standing committee may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals at such sites as he may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(*3*) The Chief Officer subject to the control of the standing committee may by written notice require the owner or occupier of any land upon which there is a privy or urinal, to have such privy or urinal shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as he may direct any privy door or trap door which opens on to any street, and which he deems to be a nuisance.

Power to require owners to keep drains, etc., in proper order; or to demolish or close a privy or cesspool.

135. (*1*) All sewers, drains, privies, water-closets, urinals, house-gullies and cesspools within a municipal borough shall, unless constructed, at the cost of the municipality, be altered, repaired, and kept in proper order at the cost and charge of the owners of the lands or buildings to which they belong, or for the use of which they have been constructed or continued; and the Chief Officer subject to the control of the standing committee may by written notice require any such owner to alter, repair, and put the same in good order in such manner as he may think fit.

(*2*) Subject to the control of the standing committee the Chief Officer may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the Chief Officer is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

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[1] This portion was substituted for the words beginning with "that water-closets" and ending with "therein or thereon" by Bom. 36 of 1949, s. 22 (*i*).

[2] These words were inserted, *ibid.*, s. 22 (*ii*).

Power to close existing private drains.

136. When any building or land within a municipal borough has a drain communicating with any cesspool or sewers, the Chief Officer, if he considers that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapted to the general sewerage of the locality, may, subject to the control of the standing committee, close such drain and such cesspool or sewer, whether they are or are not on land vested in the municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Chief Officer may, subject as aforesaid, do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorizedly constructed, rebuilt or unstopped.

137. The standing committee may by written notice require that any sewer, drain, privy, water-closet, urinal, house-gully or cesspool on any land within a municipal borough, constructed, rebuilt or unstopped—

(*a*) after such land became part of a municipal district or borough, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or by-laws, of the municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as it may deem fit, by the person by whom it was so constructed, rebuilt or unstopped; and every person so constructing, re-building or unstopping any such sewer, drain, privy, water-closet, urinal, house-gully or cesspool, whether he does or does not receive such notice or does or does not comply therewith, shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

Encroachments on municipal drains.

138. (*1*) Whoever, without the written consent of the Chief Officer first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in a municipality, shall be punished with fine which may extend to twenty-five rupees, and the Chief Officer may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as he may think fit.

(*2*) No building shall be newly constructed or reconstructed over any sewer, drain, culvert or gutter vested in a municipality, without the written consent of the Chief Officer, and the Chief Officer may by written notice require any person who has so constructed or reconstructed any building without such written consent, to pull down or otherwise deal with the same as he may think fit.

Inspection of drains, etc.

139. (*1*) A Chief Officer after due notice to the occupier may inspect any sewer, drain, privy, water-closet, urinal, house-gully or cesspool; and for that purpose, at any time between sunrise and sunset may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

Expense of inspection when to be borne by the municipality.

(*2*) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne by the municipality, unless the sewer, drain, privy, water-closet, urinal, house-gully or cess-pool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment

or of any by-laws or orders thereunder in force at the timeor issued in respect of such construction ; in which case such expense shall be paid by the owner of such sewer, drain, privy, water-closet, house-gully or cesspool, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Standing committee may execute certain works under this sub-chapter without allowing option to person concerned of executing the same. Expenses in such cases by whom to be paid.

140. (*1*) The standing committee may, if it thinks fit, cciause any work, the execution of which may be ordered by or on behalf of the mumpality under any of the provisions of this sub-chapter, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(*2*) The expenses of any work so done shall be paid by the person aforesaid, unless the municipality shall, by a general or special order or resolution, sanction as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

Pipes, etc., constructed by municipality to be municipal property.

141. Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of any private building or land, shall, if supplied, constructed or erected at the expense of the municipality, be deemed to be municipal property, unless the municipality shall have transferred its interest therein to the owner of such building or land.

(4) Powers in respect of water-supply.

Power of carrying water mains.

142. For the purpose of obtaining a supply or an additional supply of water or of distributing the same, the municipality shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing and altering water mains, pipes and ducts within or without the municipal borough as it has and is subject to under the provisions hereinbefore contained for carrying, renewing and repairing drain within the municipal borough.

(5) Powers regarding external structures, etc.

Permission necessary for certain projections.

143. (*1*) The Chief Officer, subject to any by-laws made under the provisions of this Act, may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey of such buildings, to an extent not exceeding four feet beyond the line of the plinth or basement wall of the building ; and may prescribe [1][the conditions subject to which permission may be given for the projection over such streets of roofs, eaves, weather-boards, shop-boards and the like].

[2][(*1A*) Permission granted under sub-section (*1*) may be permanent or for such period at a time as may be specified in writing when such permission is granted.]

(*2*) (*a*) Notwithstanding any proceedings which may be taken under clause (*b*) of this sub-section, the Chief Officer may, by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission or orders given or issued by or on behalf of the municipality.

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[1] This portion was substituted for the words beginning with "the extent to which" and ending with "over such streets" by Bom. 36 of 1949, s. 23 (*i*)

[2] This sub-section was inserted, *ibid*, s. 23 (*ii*).

(*b*) Any such owner or occupier putting up any projection as aforesaid without such permission or in contravention of such permission or orders, shall be punished with fine which may extend to twenty-five rupees; and if any such owner or occupier fails to remove any projection in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

Removal of projections.

(*3*) The Chief Officer may, by written notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether made before or after the site of such building became part of a municipal district or borough, shall have been made against or in front of such building, and which—

(*a*) overhangs or juts into or in any way projects or encroaches upon any public street, so as to be an obstruction to safe and convenient passage along such street, or

(*b*) projects and encroaches into, upon or over any uncovered aqueduct, drain or sewer in any such street, so as to obstruct or interfere with such aqueduct, drain or sewer or the proper working thereof:

Provided always that the Chief Officer shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district or borough or after such date with the written permission of the municipality, pay reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 198.

Troughs and pipes for rain water.

144. The Chief Officer may by written notice require the owner of a building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as he may think fit, so that it shall not fall upon the persons passing along the street

Fixing of lamps, brackets, etc., to houses.

145. The Chief Officer may erect or fix to the outside of any building brackets for lamps to be lighted with oil or gas, or subject to the provisions of the [1]Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise or subject to the provisions of the [1]Indian Telegraph Act, 1885, for telegraph wires or telephone wires, or wires for the conduct of electricity for locomotive purposes; of such pipes as he may deem necessary for the proper ventilation of sewers and water-works; such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the occupants of the said building or of any others in the neighbourhood, or to the public. IX of 1910. XIII of 1885.

Naming streets and numbering houses; penalty for defacing, etc.

146. (*1*) The municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end or corner of or entrance to a street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(*2*) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the municipality, and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

[1] Central Acts.

Penalty for defacing building, etc.

147. Any person—

(*a*) who, without the consent of the owner or occupier, and in the case of municipal property without the permission in writing of the Chief Officer affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence, pale, post, lamp-post or the like, or

(*b*) who, without such consent as aforesaid, writes upon, soils. defaces or marks any such building, wall, board, fence, pale, post, lamp-post or the like, with chalk or paint or in any other way whatsoever,

shall be punished with fine which may extend to twenty rupees.

Removal and trimming of hedges, trees etc.

148. The Chief Officer may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet; and to cut down, lop, or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which such officer deems likely to overhang, endanger or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well or other provision for water-supply as to pollute, or be likely to pollute the water thereof.

(6) Powers for promotion of public health, safety and convenience.

Ruinous or dangerous buildings; precautionary measures.

149. (*1*) Where any building or anything affixed thereon is deemed by the Chief Officer to be in a ruinous state or likely to fall or in any other way dangerous to any inhabitant of such building or of any neighbouring building or to any occupier thereof or to passengers, the Chief Officer shall immediately, if it appears to him to be necessary, cause a proper hoard or fence to be put up for the protection of passengers:

Provided that if the danger be not of hourly imminence, the Chief Officer may, instead of causing a hoard or fence to be put up, issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence which the Chief Officer considers sufficient in the circumstances of the case, the Chief Officer, shall at once cause such hoard or fence to be put up.

Repairs to b made by owner or occupier; default by such.

(*2*) The Chief Officer shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Chief Officer shall cause all or so much of such building or thing as he shall think necessary to be taken down, repaired or secured.

(*3*) All expenses incurred by the Chief Officer under this section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

150. (*1*) A Chief Officer may at any time by written notice require that the owner of or any person who has the control over any well, stream, channel, tank or other source of water supply, shall, whether such source is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (*d*) within twenty-four hours of such notice—

(*a*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*b*) cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*c*) in such manner as the Chief Officer may prescribe, protect any such source of water-supply from pollution by surface drainage, or

(*d*) repair, protect or enclose in such manner as the Chief Officer approves, any such source of water supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Chief Officer dangerous to the health or safety of the public or of any person having occasion to use or to pass or approach the same, or

(*e*) desist from using and from permitting others to use for drinking purposes any such source of water-supply, other than a stream in its natural flow, which is proved to the satisfaction of the Chief Officer to be unfit for drinking, or

(*f*) if notwithstanding any such notice under clause (*e*) such use continues and cannot in the opinion of the Chief Officer be otherwise prevented, close either temporarily or permanently or fill up or enclose or fence in such manner as the Chief Officer considers sufficient to prevent such use, such source of water-supply as aforesaid, or

(*g*) drain off or otherwise remove from any source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Chief Officer considers is injurious to health or offensive to the neighbourhood.

Remedy on non-compliance with directions issued.

(*2*) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time specified by or under the provisions of sub-section (*1*), the Chief Officer may, and if in his opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice; and all the expenses incurred therein by the Chief Officer shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Provided that in the case of any well or private stream or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Chief Officer or necessarily incurred by such owner or person having such control, may, if the standing committee so direct, be paid from the municipal fund.

Displacing pavements, etc.

151. (*1*) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags or other materials of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other such municipal property therein, without the written consent of the Chief Officer or other lawful authority shall be punished with fine which may extend to one hundred rupees.

[1][(*2*) Any person who has displaced, taken up or made alteration in, any such pavement, gutter, flags or other materials, or in such fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants or other municipal property, whether with or without the consent required under sub-section (*1*), shall be liable to pay the expense which the municipality may incur in replacing or restoring the same. Such expense shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.]

Obstruction and encroachments upon public streets and open spaces.

152. (*1*) Whoever in any [2][area] after it has become a municipal district, or borough,

(*a*) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public [3][place or] street or in or over or upon any open drain, gutter, sewer or aqueduct in such [3][place or] street shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The Chief Officer shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the municipality or not: provided that if the space

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[1] This sub-section was substituted for the original by Bom. 36 of 1949, s. 24.

[2] The word "area" was substituted for the word "place" by Bom. 19 of 1935, s. 10 (*a*) (*i*).

[3] The words "place or" were inserted, *ibid.*, s. 10 (*a*) (*ii*) and (*iii*).

be vested in [1][Government] the permission of the Collector shall have first been obtained ; the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*3*) Whoever, not being duly authorized in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and, in the case of encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(*4*) Nothing contained in this section shall prevent the Chief Officer from allowing any tenporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than ten days and in such manner as not to inconvenience the public or any individual [2][or from allowing the occupation of, or temporary erection of structures on, any such streets or spaces for any other purpose in accordance with by-laws made under the Act].

(*5*) Nothing contained in this section shall apply to any projection duly authorized under sub-section (*1*) of section 143.

Hoards to be set up during repairs, etc.

153. (*1*) A person intending to construct or take down any building or to alter or repair any building externally shall, if the position or circumstances of the work is or are likely to cause or may cuase obstruction, danger or inconvenience in any street, before beginning such work—

(*a*) first obtain a licence in writing from the Chief Officer so to do, and

(*b*) cause sufficient hoards or fences to be put up in order to separate the area where the work is to be carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Chief Officer during such time as the Chief Officer considers necessary for the public safety or convenience, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Chief Officer.

(*2*) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day, or night, as the case may be, on which such contravention continues, after the date of such conviction for such offence.

Fencing and lighting during repairs, etc.

154. (1) The Chief Officer shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in the municipality, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cuase such bars, chains or posts as he shall think fit, to be fixed across or in any street to prevent the passage of carriages, carts or other vehicles, or of cattle or horses, while such construction or repair is being carried on and shall cause any such construction or repair work in a street to be sufficiently lightled and guarded during the night.

(*2*) Whoever takes down, alters or removes any of the said bars, chains, or posts, or removes or extinguishes any such light without the authority or consent of the Chief Officer, shall be punished with fine which may extend to fifty rupees.

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[1] This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.
[2] These words were added by Bom. 19 of 1935, s. 10 (*b*).

Timber not to be deposited or hole made in street without permission.

155. (*1*) No person shall, without the written permission of the Chief Officer or otherwise than in accordance with the conditions of such permission, make a hole in any street or deposit on any street any timber, stone, brick, earth or other material that has been or is intended to be used for building; such permission shall be terminable at the discretion of the Chief Officer; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed to the satisfaction of the Chief Officer until the materials are removed, or the hole is filled up or otherwise made secure, and shall cause such materials or hole to be sufficiently lighted during the night.

(*2*) Whoever contravenes any of the provisions of sub-section (*1*) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction for such offence.

Dangerous quarrying.

156. (*1*) If in the opinion of the Chief Officer the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having a right of access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Chief Officer may, by written notice, require the owner of the said qarry or place or the person responsible for such working or removal not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Chief Officer shall direct for the purpose of preventing the danger or of abating the nuisance arising or likely to arise therefrom:

Provided that if such quarry or place is vested in [1][Government] or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of [2][the [3][Government]]; or any person acting with the permission or under the authority of [2][the [3][Government]] or of any [4][Government officer] acting as such, the Chief Officer shall not take such action, unless and until the Collector has consented to his so doing;

Provided further, that the Chief Officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers near such quarry or place, if it appears to him to be necessary in order to prevent imminent danger.

(*2*) Any expense incurred by the Chief Officer in taking action under this section shall be paid by such owner or the person responsible for such working or removal, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Provision as to dogs.

157. (*1*) The Chief Officer may by public notice require that every dog while in the streets and not bing led by some person shall be muzzled in such a way as to allow the dog freely to breath and to drink, while effectually preventing it from biting.

(*2*) Subject to the provisions of sub-section (*3*) the Chief Officer may take possession of any dog found wandering unmuzzled in any public place and may either detain such dog until its owner has claimed it, has provided a proper muzzle for it, and has paid all the expenses of its detention or cause it to be destroyed.

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[1] This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.
[2] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Oder in Council.
[3] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words "Servant of the Crown", *ibid.*

(*3*) When a dog which has been detained under the last preceding sub-section is wearing a collar with the owner's name and address thereon, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to the said address, and the dog has remained unclaimed for three clear days: provided that any dog which is found to be rabid may be destroyed at any time.

(*4*) Any unclaimed dog and any dog, the owner of which refuses to pay all the expenses of its detention may be sold or destroyed, after having been detained for the said period of 3 clear days.

(*5*) All expenses incurred by the Chief Officer under this section may be recovered from the owner of any dog which has been taken possession of or detained in the manner provided by Chapter VIII.

[1][**157A.** (*1*) If it shall appear to the Chief Officer at any time that nuisance or annoyance is caused to the public by the keeping of pigs within the limits of the municipal borough, the Chief Officer may direct by public notice that no person shall, without the written permission of the Chief Officer, or otherwise than in conformity with the terms of such permission keep any pigs in any part of the borough. Provision as to keeping of pigs.

(*2*) Whoever shall after such direction keep any pigs in any place within the municipal borough without the permission required as aforesaid, or otherwise than in accordance with the terms thereof, shall be punished with fine which may extend to fifty rupees.

(*3*) Any pigs found straying may be forthwith destroyed and the carcass thereof disposed of as the Chief Officer shall direct. No claim shall lie for compensation for any pigs so destroyed.]

(*7*) *Powers for the prevention of nuisances.*

158. (*1*) Whoever deposits or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, refuse, or filth of any kind or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance, in any street or in any arch under a street or in any drain beside a street or on any open space or on any quay, jetty or landing place or on any part of the seashore on the bank of a tidal river, whether above or below high-water mark, or on the bank of any river, water-course or nullah, except at such places, in such manner and at such hours as shall be fixed by the Chief Officer, and whoever commits or suffers any member of his family or household to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees. Depositing dust, etc.; committing nuisance.

[1]This section was inserted by Bom. 36 of 1949, s. 25.

(*2*) Whoever throws or puts or causes or suffers any member of his family or household to throw or put any of the matters described in sub-section (*1*) except night-soil or, except with the permission of the Chief Officer, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance or suffers any member of his family or household to commit nuisance in any such sewer, drain, culvert, tunnel, gutter or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

Discharging sewage, etc.

159. Whoever causes or allows the water of any sink or sewer or any other liquid or other matter which is or which is likely to become offensive, from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Chief Officer or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees.

Non-removal of filth, etc.

160. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees and with further fine which may extend to five rupees for every day on which such offence is continued, after the date of the first conviction for such offence.

Removal of night-soil.

161. (*1*) The Chief Officer may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter.

(*2*) Whoever,—

(*a*) when the Chief Officer has fixed such hours and given public notice thereof by beat of drum, removes or causes to be removed along any street any such offensive matter at any time except within the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the Chief Officer, or not,

(*i*) uses for any such purpose any cart, carriage receptacle or vessel, not having a covering sufficient for preventing the escape of the contents thereof and of the stench therefrom, or

(*ii*) wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

(*iii*) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(*iv*) places or sets down in any public place any vessel containing such offensive matter, or

(*v*) drives or takes or causes to be driven or taken any cart, carriage, receptacle, or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Chief Officer by public notice,

shall be punished with fine which may extend to twenty-five rupees.

Filthy buildings, etc.

162. (*1*) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Chief Officer a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation and who shall not, within a reasonable time after notice in writing by the Chief Officer to cleanse, clear or otherwise put such building or land in a proper state have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued after the date of the first conviction for such offence.

Deserted and offensive buildings.

(*2*) Where any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby—

(*a*) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(*b*) coming into use for any insanitary or immoral purpose, or

(*c*) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the standing committee, if it considers such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal borough who claims to be the owner of such building, by written notice directed to such person, require

such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed; in the event of non-compliance with such requirement, the standing committee, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by it in so doing; all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Buildings or rooms in buildings unfit for human habitation.

163. (*1*) If, for any reason, it shall appear to the standing committee that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the standing committee shall give to the owner or occupier of such building notice in writing, stating such reason, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall in such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice; and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the standing committee invalid or insufficient, the standing committee may by an order in writing prohibit the further use of such building or room as a dwelling.

(*2*) When any such prohibition as aforesaid has been made, the Chief Officer shall cause notice of such prohibition to be affixed to, and the letters "U. H. H." to be painted on, the door or some conspicuous part of such building or room as the case may be; and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the standing committee certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

Power to enter and inspect, etc. buildings.

164. It shall be lawful for the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officer authorised by the municipality in this behalf, at any time between sunrise and suset after due notice to enter into and inspect all buildings and lands, and by written notice to direct for sanitary reasons all or any part thereof to be forthwith internally and externally lime washed or otherwise cleansed.

Bathing places.

165. (*1*) The standing committee may set apart sufficient public places, or any part of the seashore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animls or clothes, or for any purpose connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal borough.

(*2*) Copis of all orders passed and notices issued by the standing committee and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable time.

Regulation of washing of clothes by washermen.

[1][165A. (*1*) The standing committee may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as it shall appoint for this purpose; and when any such prohibition has been made, no person who is, by calling, a washerman shall wash clothes at any place not appointed for this purpose by the standing committee, except for such person himself or for the owner or occupier of such place.

Washing place to be provided by the standing committee for washermen.

(*2*) The standing committee shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by it with the approval of the municipality.

(*3*) The standing committee shall, before issuing any public notice under sub-section (*1*), publish in such manner as shall in its opinion be sufficient, for the information of persons likely to be affected thereby, a list of washing places proposed to be provided under sub-section (*2*), together with a notice specifying a date on or after which the list will be taken into consideration; and shall, before finally fixing the said places, receive and consider any objection or suggestion in respect thereto which may be made in writing by any person before the date so specified.]

Fouling water.

166. Whoever, in disobedience of any order of the municipality under section 165, or of any by-law, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the municipality, or washes or causes to be washed therein any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought there into anything that is or may become a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted and whoever without permission of the Chief Officer steeps in any tank, stream, or ditch within or on the boundary of, the municipal borough any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance shall be punished with fine which may extend to fifty rupees.

Abatement of nuisance from wells, etc.

167. (*1*) If, in the opinion of the Chief Officer—

(*a*) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water-course, or any collection of water, or

(*b*) any cistern or other receptacle for water whether within or outside a building, or

(*c*) any land on which water accumulates and which is situate within a distance of one hundred yards from any building used as a dwelling house, is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Chief Officer may, by notice in writing, require the owner thereof to fill up, cover over or drain off the same in such manner and with such materials as the Chief Officer shall prescribe, or to take such order with the same for removing or abating the nuisance as the Chief Officer shall prescribe.

(*2*) (*a*) No new well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission in writing of the Chief Officer.

(*b*) If any such work is begun or completed without such permission, the Chief Officer may either—

(*i*) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chief Officer shall prescribe; or

[1] This section was inserted by Bom. 12 of 1931, s. 3 (*iv*).

(*ii*) grant written permission to retain such work ; but such permission shall not exempt such owner from proceedings for contravening the provisions of clause (*a*) of this sub-section.

Using offensive manure, etc.

168. Whoever, except with the written permission of the Chief Officer, and in accordance with the conditions of such permission, stores or uses night-soil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees.

Tethering cattle, etc.

169. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street, or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper [1][shall, on conviction, be punished—

(*a*) for a first offence, with fine which may extend to one hundred rupees ;

(*b*) for any subsequent offence, with fine which may extend to two hundred and fifty rupees].

Feeding animals on filth.

170. Whoever feeds any animal which is kept for dairy purposes or is intended for human food on excrementitious matter, stable-refuse, filth or other offensive matter, or permits such animal to feed or to be fed on such matter, shall be punished with fine which may extend to fifty rupees.

Consumption of smoke.

171. (*1*) It shall be lawful for the municipality to direct by public notice that every furnance employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever, within the limits of the municipal borough whether a steam engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnance.

(*2*) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented or altered, or shall so negligently use, or permit to be used, any such furnace that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, such person being the owner or occupier of the said works or buildings or an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees and upon any subsequent conviction to five hundred rupees :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(*8*) *Regulation of markets, sale of food, etc.*

Licensing markets and slaughter-houses.

172. (*1*) It shall be lawful for the municipality to direct that no place other than a municipal market or slaughter-house, shall be used for any of the purposes specified in sub-clauses (*i*) and (*ii*) of clause (*b*) of sub-section (*1*) of section 61 except under and in accordance with the conditions of a licence from the standing committee, which may at its discretion from time to time grant, suspend, withhold or w thdraw such licences either generally or in individual cases.

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[1] This portion was substituted for the words "shall be punished with fine which may extend to twenty-five rupees" by Bom. 26 of 1953, s. 24.

(*2*) Whoever uses or permits the use of any place contrary to such direction, or without the licence required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such licence, shall be punished with fine which may extend to twenty-five rupees.

(*3*) Upon a conviction being obtained in respect of any place under sub-section (*2*) of this section, the magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used ; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

(*4*) Nothing in this section or in sub-clause (*ii*) of clause (*b*) of sub-section (*1*) of section 61 shall apply to any liquor as defined in the Bombay Abkari Act, 1878.[1] Bom. V of 1878.

Opening, closing and letting of markets and slaughter-houses.

173. (*1*) The municipality may from time to time open or close any public market or slaughter-house. It may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in or of otherwise using any such market or slaughter-house.

(*2*) Any person who, without the permission of or a licence from the municipality, shall sell or expose for sale any article in the said markets or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

Farming of market and slaughter-house rents.

174. It shall be lawful for the municipality to lease by public auction or private contract the collecting of any rent or fees which may be imposed under section 173 :

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Power to remove persons from municipal markets.

[2][**174A.** If any officer specially empowered in this behalf by the municipality is satisfied that any person occupying any stall or space in any market is in unauthorised occupation of the stall or space or continues to occupy the stall or space after authority to occupy has ceased, he may, with the previous sanction of the municipality, require such person to vacate the stall or space within such time as may be mentioned in the requisition and if such person fails to comply with the requisition, such person may, in addition to any penalty which may be imposed under this Act, be summarily removed from the stall or space.]

Slaughter-houses, etc., beyond municipal limits.

175. It shall be lawful for a municipality with the sanction of the Commissioner or, if authorised by him, of the Collector to establish slaughter-houses or places for the disposal of carcasses of animals beyond the limits of the municipal borough and all provisions of this Act and of by-laws in force thereunder relating to such slaughter-houses or places within the municipal borough, shall have full force in slaughter-houses or places established under this section, as if they were within the municipal borough

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[1] *See* now the Bombay Prohibition Act, 1949 (Bom. 25 of 1949).

[2] Section 174A was inserted by Bom. 26 of 1953, s. 25.

Search for and inspection of unwholesome articles.

176. (*1*) The president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorised by the municipality in this behalf—

(*a*) may at all reasonable times enter into any place for the purpose of inspecting and may inspect any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

(*b*) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of a perishable nature may under the orders of the president, vice-president, chairman of the standing committee or Chief Officer if in his opinion it is diseased, unsound, unwholesome or unfit for human food, drink or medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appear to the Magistrate upon sufficient evidence that any such animal or article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply be punished with fine which may extend to one hundred rupees. and the Magistrate shall cause such animal or article to be destroyed or to be so disposed of as to prevent its being exposed for sale or use for human food or drink or medicine.

Bom. XLV of 1860.

Adulterated articles for food or drink.

(*2*) In every municipal borough in which by virtue of a notification under sub-section (*4*) of section 1 of the [1]Bombay Prevention of Adulteration Act, 1899, the provisions of that Act are in force, and in respect of any food or drink to which the provisions of any section coming into force under sub-section (*4*) of section 1 of that Act are for the time being applicable in such borough by a notification, under sub-section (*5*) of section 1 of that Act, the following provisions shall be in force, namely :—

Bom. II of 1899.

If any article to which this sub-section is applicable as aforesaid is intended for food or drink, the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorised by the municipality in this behalf in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink ; and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

XLV of 1860.

Explanation.—If such article having been exposed or stored in or brought to any place for sale as ghee contains any substance not exclusively derived from milk, it shall be deemed to be for the purposes of this sub-section, an article which is not what it is represented to be.

Protection to persons acting in good faith.

Where any article to which this sub-section is applicable, appears to the Magistrate not to be what it is represented to be, solely by reasons of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate—

(*a*) that such substance has been added to the article because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the article or conceal the inferior quality thereof, or

(*b*) that in the process of production, preparation or conveyance of such article, the extraneous substance has unavoidably become intermixed therewith, or

(*c*) that by a label distinctly and legibly written or printed on or with the said article or by other means of public description, he has given sufficient notice that such substance has been so added, or

(*d*) that—

(*i*) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(*ii*) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(*iii*) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it :

Provided that this sub-section shall not apply to any borough to which the Bombay Prevention of Adulteration Act of 1925 has been extended.

Bom. V of 1925.

[1] On coming into operation of the Bombay Prevention of Adulteration Act, 1925 (Bom. 5 of 1925), in any local area, in respect of any article of food, Bom. 2 of 1899, except sec. 6, shall be deemed to have been repealed (*vide* Bom. 5 of 1925, sec. 20, Schedule B).

Application for summons to be refused if not applied for within reasonable time.

(*3*) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

Powers of inspection of weights and measures, etc.

[1][**177.** The president, vice-president, chief officer or any councillor authorised by the municipality in this behalf may at all reasonable times enter into any place [2][(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments.] Bom. XV of 1932.

(*9*) *Regulation of dairies and cattle sheds.*

Licensing of dairies.

178. [3][(*1*) Except under and in accordance with the terms of a licence from the standing committee, no person shall—

(*a*) carry on the trade or business of a dealer in, or importer or seller of, sweetmeats, milk, butter or other milk products, or

(*b*) use or permit to be used for the purposes of trade, any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter.]

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw [4][or suspend] such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn [4][or suspended] without any such notice.

(*3*) Whoever [5][carries on the trade or business of a dealer in, or importer or seller of, sweetmeats, milk, butter or other milk products, or] so uses or permits to be used any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such licence, shall be punished with fine which may extend to fifty rupees and in the case of a continuing offence with additional fine which may extend to ten rupees for each day during which such offence is continued after the date of the conviction for the first such offence.

(*4*) Upon a conviction being obtained in respect of any place under sub-section (*3*) the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.

(*10*) *Prevention of dangerous diseases.*

Powers to prevent disease which may at any time be conferred.

179. (*1*) [6][The Provincial Government] may at any time confer by notification on any municipality designated therein, all or any of the powers specified in sub-section (*2*) and such municipality shall, subject to all such limitations, restrictions and conditions, if any, as [6][the Provincial Government] in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal borough every power so conferred on it, for such period as may be specified in this behalf, in any such notification, or if no period is so specified, then, until the power is withdrawn.

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[1] This section was substituted for the original section by Bom. 15 of 1932, Second Schedule, Pt. I.

[2] These words, brackets and figures were inserted by Bom. 9 of 1935, s. 6 (*1*).

[3] This sub-section was substituted for the original by Bom. 36 of 1949, s. 26 (*i*).

[4] These words were inserted, *ibid*, s. 26 (*ii*).

[5] These words were inserted, *ibid*, s. 26 (*iii*).

[6] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*2*) The powers, all or any of which may be conferred under the preceding sub-section, are :

(*a*) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under his management or control, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the municipality in that behalf;

(*b*) power to direct or authorize the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable of any place in which any dangerous disease is reported or suspected to exist and the taking of measures to prevent the spread of the disease beyond such place ;

(*c*) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the municipality, on the advice of a medical officer, likely to endanger or cause the spread of any dangerous disease ;

(*d*) power to direct or cause the removal on a certificate signed by any duly qualified medical practitioner authorised by the municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, or in a place where his presence may be a danger to the neighbourhood, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment ; and to prohibit the person so removed from leaving such hospital or place without the permission of the municipality ;

(*e*) power to require by written notice the owner or occupier of any building or part of a building, or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the municipality in the circumstances of the case considers reasonable, at the expense of the municipality ;

(*f*) power to provide the means and to prescribe places for disinfecting or washing, bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof ;

(*g*) power—

(*i*) to provide and maintain suitable conveyance for the free carriage of persons suffering from any dangerous disease, and

(*ii*) when such provision is made to prohibit the conveyance of such person in all or any public conveyances, and

(*iii*) to direct that any conveyances that may at any time be used for conveying any such persons shall be immediately disinfected ;

(*h*) power to prohibit—

(*i*) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmshala, theatre, market or other place of public resort, or

(*ii*) any person in charge of any person so suffering from so exposing such sufferer ;

(*i*) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows or has reason to believe has been exposed to infection of any kind whatsoever from any dangerous disease ;

(*j*) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharmshala, or serai in which a person has, or in which there is reason to believe that a person has been suffering from a dangerous disease unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the municipality, or of such officer as the municipality may appoint in this behalf ;

(*k*) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from a dangerous disease.

(*3*) The municipality may, in its discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(*4*) Any person who in a municipal borough disobeys any order which is for the time being in force therein, and which has been passed by the municipality in exercise of any power conferred on such municipality under this section, or obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order, shall be punished with fine which may extend to fifty rupees.

Duties of municipality on threatened or actual outbreak of dangerous disease.

180. (*1*) In the event of the municipal borough or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the municipality shall take all such measures as the [1][Commissioner] may deem necessary for the purpose of preventing, meeting, mitigating or supressing such outbreak.

(*2*) In such event as aforesaid the [1][Commissioner] may by special notification declaring that such municipal borough is threatened or visited with an outbreak of a dangerous disease, confer on the municipality all or any of the additional powers specified in the following sub-section, and such municipality shall, subject to such limitations, restrictions and conditions, if any, as the [1][Commissioner] in the same or in any subsequent notification may prescribe, exercise every such power so conferred on it until the same is withdrawn by means of a like notification.

(*3*) The powers, all or any of which may be conferred under the preceding sub-section, are—

(*a*) power to order, subject to the conditions—

(*i*) that the permission of [2][a Taluka Magistrate] shall be in each case first obtained, and

(*ii*) that accommodation for all persons to whom the order refers is available' or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling or of any part thereof, or of any building so used adjacent to such building by the person or persons residing, whether habitually or temporarily, therein ;

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[1] The word "Commissioner" was substituted for the word "Government" by Bom. 19 of 1935, s. 11.

[2] These words were substituted for the words "a Magistrate exercising not less than second class powers" by Bom. 8 of 1954, s. 2. Schedule—Part III.

(*b*) power to direct the examination by a medical officer of persons and if necessary, the disinfection of the clothing, bedding, or other articles suspected of being infected, belonging to persons either arriving from places outside the municipal borough, or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such times and places as may be prescribed, for a period not exceeding ten days ;

(*c*) power to prohibit either generally or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the district or other medical officer appointed by [1][the [2][State] Government] in this behalf, such assemblages in such place or in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(*4*) The municipality may in its discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section ; but except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(*5*) If in any municipal borough in which a notification under sub-section (*2*) is for the time being in force, any person—

(*a*) knowingly disobeys any order which for the time being is in force in such borough and which has been passed by the municipality in exercise of any power conferred on it under section 179 or under this section, or

(*b*) obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order,

such person shall be punished with fine which may extend to one thousand rupees.

Withdrawal and modification of powers and orders.

181. (*1*) [3][[1][The [2][State] Government], in the case of any power conferred under section 179, and the Commissioner, in the case of any power conferred under section 180 may at any time—

(*a*) withdraw any such power ;]

(*b*) cancel or modify any limitation, restriction or condition prescribed in respect of any such power ; or

(*c*) cancel any order passed by a municipality in exercise of any such power.

(*2*) Every order passed by a municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal borough.

Duties of municipality in respect of diseases among cattle, sheep or goats.

182. If in any municipal borough any infectious disease amongst cattle, sheep or goats breaks out or if the introduction of any such disease appears to be likely, the municipality shall take all such measures as it may deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

Proceedings to abate the overcrowding of the interiors of buildings.

183. (*1*) Whenever the standing committee considers the interior of a building is so overcrowded as to be or to be likely to become dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the standing committee may cause proceedings to be taken before [4][a Taluka Magistrate] for the purposes of obtaining an order to prevent such overcrowding.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by Adaptation of Laws Order, 1950.

[3] These words, letter, figures and brackets were substituted for the original words, letter, brackets and figures by Bom. 19 of 1935, s. 12.

[4] These words were substituted for the words "a Magistrate of the first class" by Bom. 8 of 1954, s. 2, Schedule—Part III.

(*2*) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease or risk of disease and after such further inquiry, if any, as may appear to such Magistrate necessary, requires the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said buildings to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(*3*) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall for the purposes of this section be deemed to be the owner of the building.

(*4*) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (*2*), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed in such requisition written notice to vacate the said building, within the period specified in such requisition, and any such lodgers, tenants or inmates receiving notice shall be bound to comply therewith.

(*5*) Any owner who after the date specified in any requisition issued under sub-section (*2*) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (*4*), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding or such omission to vacate, continues.

Special powers which may be conferred by the [2][State] Government in respect of overcrowded area.

184. (*1*) If [1][the [2][State] Government] is of opinion that risk of disease has arisen or is likely to arise either to any occupier in, or to any inhabitant in the neighbourhood of, any area by reason of any of the following defects, namely—

(*a*) the manner in which either buildings or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together, or

(*b*) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected, or

(*c*) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid, or

(*d*) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings,

it may by notification confer on the municipality to which such area is subject, all or any of the powers specified in sub-section (*2*), and may, if it deems necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of [1][the [2][State] Government].

(*2*) The powers, all or any of which may be conferred on a municipality under sub-section (*1*) are as follows:

(*a*) power when any building or block already existing or in course of erection, by reason of any defect specified in sub-section (*1*), has given or is in the opinion of the municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed, as the municipality deems fit, either to the owners thereof or to

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by Adaptation of Laws Order, 1950.

the owners of the land on which such building or block is erected or is in course of erection that the persons so addressed shall, within such reasonable time as shall be specified in the notice, either pull down or remove such building or block, or execute such works or take such action in connection therewith as the municipality deems necessary to prevent all such risk of disease ;

(*b*) power by municipal or other agency to pull down or remove such building or block, or to execute such works to take such action as aforesaid, if the persons addressed in the said notice neglect so to do within the time specified therein ;

(*c*) power, subject to a right of appeal to the Commissioner whose decision shall be conclusive, to prohibit, by written notice addressed to the owners and occupiers of any site or space hereinafter described and by general notice published in the manner provided in sub-section (*3*) of section 192, the erection of any building or of any building exceeding such dimensions as may be specified in such notice :—

(*i*) on the site of any building which has, in whole or in part, under the provisions of this section, been pulled down, or

(*ii*) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not, if the municipality considers that in order to prevent such risk as aforesaid, such site or space should not be built upon in whole or in part ; and either to acquire such site or space or to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof :

Provided that in every case compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198, shall be paid to any person whose rights are affected by such prohibition.

(*3*) When, in pursuance of any notice under sub-section (*2*), any building has been pulled down, the municipality shall, unless such building has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall in case of dispute be ascertained or determined in the manner provided in section 198.

(*4*) [1][The [2][State] Government] may prescribe by rule a fine not exceeding five hundred rupees, for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach, of any order made or conditions imposed by the municipality in exercise of any powers conferred upon it under this section.

Closing of places for disposal of the dead.

185. (*1*) Where the municipality is of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, it may submit its opinion with the reasons therefor to the Commissioner and the Commissioner thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the said notification.

(*2*) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(11) Nuisances from certain trades and occupations.

Regulation of certain trades.

186. (*1*) If it be shown to the satisfaction of the standing committee that any building or place used or intended by any person to be used—

(*a*) for boiling or storing offal, blood, bones or rags,

(*b*) for salting, curing or storing fish,

(*c*) for storing hides, horns or skins,

(*d*) for tanning,

(*e*) for the manufacture of leather or leather goods,

(*f*) for dyeing,

(*g*) for melting tallow or sulphur,

(*h*) for washing or drying wool or hair,

[1][(*i*) for manufacturing or preparing by any process whatever, bricks, pottery or lime,]

(*j*) for soap making,

(*k*) for oil-boiling or oil extracting,

(*l*) as a manufactory of sago,

(*m*) as a distillery,

(*n*) for storing hay, straw, fodder, wood, coal or other combustible material,

(*o*) as a manufactory of snuff,

(*p*) for the manufacture or sale of sweetmeats,

(*q*) as a factory, workshop or place of business in which animals are employed or intended to be employed for doing work or in which steam, water or any mechanical power is used or intended to be used,

(*r*) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,

[2][(*s*) as a hair dressing saloon or a barber's shop or a hamamkhana,]

is or is likely to become by reason of such use and of its situation a nuisance to neighbourhood or is so used or is so situated as to be likely to be dangerous to life, health or property, the standing committee may by written notice require the owner or occupier—

(*i*) at once to discontinue the use of or at once to desist from carrying out or allowing to be carried out the intention so to use, such building or place, or

(*ii*) to use it in such manner or after such structural alterations as the standing committee in such notice prescribes so that it may not become or may be no longer, a nuisance or dangerous.

Explanation 1.—For the purpose of clauses (*q*) and (*r*) nuisance shall include any contamination of the atmosphere whereby a deposit of soot is caused or any mechanical noise.

Explanation 2.—Nothing in clauses (*q*) and (*r*) shall be deemed to affect any provision of the Indian Boilers Act, 1923, or shall authorize any order relating to the fixing or fencing of any engine, mill-gearing, hoist or other machinery in any factory to which the provisions of the[3] Indian Factories Act, 1911, are applicable. V of 1923. XII of 1911.

Liability to penalty after notice.

(*2*) Whoever after notice has been given under sub-section (*1*), uses any building or place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health, or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction.

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[1] Clause (*i*) was substituted for the original by Bom. 26 of 1953, s. 26

[2] Clause (*s*) was inserted by Bom. 19 of 1935, s. 13.

[3] *See* now the Factories Act, 1948 (63 of 1948).

(*3*) Upon a conviction being obtained under this section the Magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section (*1*).

Penalty for unlicensed places in district in which by-laws under section 61(*1*) (*b*) (*iii*) are in force.

(*4*) Whoever uses without a licence or during the suspension or after the withdrawal of a licence, any place for any purpose mentioned in sub-section (*1*) in any municipal borough in which by-laws are for the time being in force prescribing the conditions on or subject to which, the circumstances in which, and the areas or localities in respect of which, licences for such use may be granted, refused, suspended or withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction.

Prohibition of use of steam whistles, etc.

187. (*1*) No person shall use or employ in any factory or any other place any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a licence from the standing committee.

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any such notice.

(*3*) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of or after the withdrawal of such licence, shall be punished with fine which may extend to fifty rupees.

Loitering or importuning for purposes of prostitution.

[1]**188.** Whoever in any street or public place within the limits of a municipal borough loiters for the purposes of prostitution or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a Police Officer not below the rank of an officer in charge of a police station and specially authorized in this behalf by the District Magistrate or by the municipality.

Brothels.

189. In any municipal borough—

(*a*) any part of which is within three miles of a cantonment, or

(*b*) to which on the application of the municipality [2][the [3][State] Government] may by notification have declared this section to apply,

any [4][Executive Magistrate], on receiving information that a house within the limits of such borough is used as a brothel, may summon the owner or occupier of such house and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it ; and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

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[1] In any municipal borough to which section 3 of the Bombay Prevention of Prostitution Act, 1923 (Bom. 11 of 1923), may be extended under section 1 of the said Act, section 188, of Bom. 18 of 1925 shall be deemed to have been repealed from the date of such extension [*vide* Bom. 11 of 1923, section 13 (2)].

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by Adaptation of Laws Order, 1950.

[4] These words were substituted for the words "Magistrate of the first class" by Bom. 8 of 1954, s. 2, Schedule—Part III.

Provided that action under this section shall be taken only—

(*a*) with the sanction or by the order of the District Magistrate, or

(*b*) on the complaint of three or more inhabitants of the municipal borough residing in the vicinity of the house to which the complaint refers.

(12) *Regulation of pilgrims' lodging houses.*

Pilgrims' lodging houses.

190. (*1*) No person shall, in any municipal borough which [1][the [2][State] Government] shall have declared by notification to be a pilgrim centre for the purposes of this section and of clause (*d*) of sub-section (*1*) of section 61, use or permit to be used any place or building for the purpose of lodging pilgrims except under and in accordance with the conditions of a licence from the standing committee.

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any further notice.

(*3*) Whoever lodges or permits to be lodged any pilgrim in any place or building without or in contravention of any of the conditions of or after the withdrawal of or during the suspension of such licence, shall be punished with a fine not exceeding five rupees for each such pilgrim for each day or part of a day during which such pilgrim has been so lodged.

(13) *Powers in case of fire.*

Police and municipal officers to aid fire-brigade.

191. It shall be the duty of all police officers and of all municipal officers and servants to aid a fire-brigade in the execution of its duties. Such officers and servants may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

(14) *Service of notices, penalties on non-compliance therewith and execution of works on default.*

Service of notices, etc. addressed to individuals.

192. (*1*) The service of every notice and the presentation of every bill under this Act on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for in this Act, be effected by a municipal officer or servant or other person authorised by the Chief Officer in this behalf—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed ; or

(*b*) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal borough, or by giving or tendering, the notice or bill to some adult [3]*member or servant of his family ; or

(*c*) if such person does not reside within the municipal borough, and his address elsewhere is known to the President or other person directing the issue or the notice or bill, then by forwarding the notice or bill by registered post under cover bearing the said address ; or

(*d*) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates :

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[1] The words " The Provincial Government" were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by Adaptation of Laws Order, 1950.

[3] The word " male " was deleted by Bom. 36 of 1949, s. 27.

Service of notices on owners or occupiers of buildings and lands.

(*2*) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier or if there be more owners or occupiers than one, to any one of them ; or

(*b*) if no such owner or occupier be found, then by giving or tendering the notice to some [1]* adult member or servant of the family of any such owner or occupier as aforesaid ; or

(*c*) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

(*3*) Every notice which this Act requires or empowers a municipality or any municipal authority or officer to give or to serve either as a public notice or generally or by provisions which do not expressly require notice to be given to individuals therein specified shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other public buildings and places, or is published in such local papers or in such other manner, as the municipality in by-laws in this behalf prescribes.

Defective form not to invalidate notice.

(*4*) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(*5*) (*a*) Where any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*b*) In the event of non-compliance with the terms of the notice it shall be lawful for the Chief Officer to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 199.

Punishment for disobedience of orders and notices not punishable under any other section.

193. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a municipality under any power conferred by this Chapter, or fails to comply with the conditions subject to which any permission was given to him by or on behalf of a municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction :

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

General penalty.

[2][**193A.** Whoever does or omits to do an act in contravention of any provisions of this Act or the bye-laws made thereunder or the conditions of a licence or permission granted by a municipality under the said provisions or bye-laws shall if such act or omission is not an offence under the said provisions or bye-laws, be punished with fine which may extend to fifty rupees and with further fine which may extend to five rupees for every day on which such act or omission continues after the date of the first conviction.]

[1] The word "male" was deleted by Bom. 36 of 1949, s. 27.
[2] Section 193A was inserted by Bom. 19 of 1935, s. 14.

Municipality in default of owner or occupier may execute works and recover expenses.

194. (*1*) Where under the provisions of this Act any work is required to be executed by the owner or occupier of any building or land and default is made in the execution of such work, the municipality, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the municipality may seem fit:

Provided that—

Agreement for construction of drainage and water connections.

(*a*) where any drainage scheme or water-works scheme has been commenced by any municipality, it shall be lawful for the municipality, without prejudice to its powers under section 129 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out; and the pecuniary or other assistance, if any, which the municipality shall render: and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner described in sub-sections (*2*) and (*3*);

Improvement expenses.

(*b*) where an order or requisition has been passed under sub-section (*1*) of section 115, sub-section (*1*) of section 117, sub-section (*2*) or (*8*) of section 123 or under section 127, 129, 134 or 135 or where permission has been given under section 131, or where an arrangement has been made under proviso (*a*) of this sub-section, the municipality may, without prejudice to any other powers under this Act, if it think fit, declare any expenses incurred by the municipality in the execution of such order or in the carrying out of such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the municipality may decide, including interest at the rate of seven and a half per cent. per annum, and shall be recoverable in the manner described in sub-sections (*2*) and (*3*).

Power to levy charges on occupier who may deduct the same from his rent.

(*2*) If the defaulter be the owner of the building or land the municipality may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him or which at any time after such demand and notice not to pay rent to the landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

Occupier in default of owner, may execute works and deduct expenses from his rent.

195. Where default is made by the owner of any building or land in the execution of any work required to be executed by him the occupier of such building or land may, with the approval of the municipality cause such work to be executed and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes the execution of the Act.

196. If the occupier of any building or land prevent the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, [1][any executive Magistrate] upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order ; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute any such work, such occupier shall for every day during which he so continues to refuse, be punished with fine which may extend to fifty rupees and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

(*15*) *Miscellaneous.*

Entry for purposes of the Act.

197. It shall be lawful for the President, vice-President, Chief Officer or any officer authorised by the Chief Officer for such purpose, to enter for any purpose of this Act, between sunrise and sunset, with such assistants as he may deem necessary, into and upon any building or land :

Provided that except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier ;

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in cases of compensation, etc.

198. (*1*) [2][Save as expressly provided in section 198B, if an agreement] is not arrived at with respect to any compensation or damages which are by this Act directed to be paid, the amount and if necessary the apportionment of the same shall be ascertained and determined by a panchayat of five persons, of whom two shall be appointed by the municipality, two by the party to or from whom such compensation or damages may be payable or recoverable, and one, who shall be sir-panch, shall be selected by the members already appointed as above.

(*2*) If either party or both parties fail to appoint members or if the members fail to select a sir-panch within one month from the date of either party receiving written notice from the other of claim to such compensation or damages, such members as may be necessary to constitute the panchayat shall be appointed, at the instance of either party, by the District Judge.

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[1] These words were substituted for the words "any Magistrate" by Bom. 8 of 1954, s. 2, Schedule, Part III.

[2] These words were substituted for the words "If an agreement" by Bom. 35 of 1954, s. 29.

(*3*) In the event of the panchayat not giving a decision within one month from the date of the selection of the sir-panch or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court which shall in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the [1]Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court : I of 1894.

Provided that—

(*a*) no application to the Collector for a reference shall be necessary, and

(*b*) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

(*4*) In any case where the compensation is claimed in respect of land and the panchayat has given a decision, either party if dissatisfied with the decision, may within a month of the date thereof apply to the District Court and the matter shall be determined by the District Court in accordance with the provisions of sub-section (*3*).

(*5*) In any case where the compensation is claimed in respect of any land or building the municipality may after the award has been made by the panchayat or the District Court, as the case may be, take possession of the land or building, after paying the amount of the compensation determined by the panchayat or the District Court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the municipality shall deposit the amount of the compensation in the District Court.

Requisitioning of premises, vehicles, etc., for municipal elections.

[2][**198A.** (*1*) If on a request made by the president of a municipality in that behalf or on its or his own motion it appears to the State Government or an officer authorised by the State Government (hereinafter referred to as the requisitioning authority), that in connection with an election under this Act—

(*a*) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(*b*) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport or ballot boxes to, or from, any polling station or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for the performance of any duties in connection with such election,

the requisitioning authority may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning :

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[1] Central Acts.

[2] Sections 198A to 198F were inserted by Bom. 35 of 1954, s. 30.

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(*2*) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served in the manner prescribed by rule made by the State Government on the person to whom it is addressed.

(*3*) Whenever any property is requisitioned under sub-section (*1*), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

Explanation.—For the purpose of this section "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof.

Payment of compensation.

198B. (*1*) Whenever in pursuance of section 198A the requisitioning authority requisitions any premises the municipality shall pay to the person interested compensation the amount of which shall be determined by taking into consideration the following, namely :—

(*i*) the rent payable in respect of the premises or if no rent is payable, the rent payable for similar premises in the locality ;

(*ii*) if in consequence of the requisition of the prendses the person interested is compelled to change his residence or place of buisness, the reasonable expenses (if any) incidental to such change :

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine :

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the requisitioning authority to an arbitrator appointed in this behalf by the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 198A immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(*2*) Whenever in pursuance of section 198A the requisitioning authority requisitions any vehicle, vessel or animal, the municipality shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning

authority on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal :

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine :

Provided further that where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement, in such manner as an arbitrator appointed by the requisitioning authority in this behalf may decide.

Power to obtain information.

198C. The requisitioning authority may with a view to requisitioning any property under section 198A or determining the compensation payable under section 198B by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Eviction from requisitioned premises.

198D. (*1*) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 198A may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(*2*) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door or any building or do any other act necessary for effecting such eviction.

Release of premises from requisition.

198E. (*1*) When any premises requisitioned under section 198A are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(*2*) Where the person to whom possession of any premises requisitioned under section 198A is to be given under sub-section (*1*) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the *Official Gazette*.

(*3*) When a notice referred to in the sub-section (*2*) is published in the *Official Gazette* the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority or the municipality shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Penalty for contravention of any order regarding requisitioning.

198F. If any person contravenes any order made under section 198A or section 198C he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

Costs or expenses how determined and recovered.

199. If a dispute arises with respect to any costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the standing committee and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

CHAPTER X.

PROSECUTIONS, SUITS AND POWERS OF POLICE.

Municipality may prosecute.

200. (*1*) The standing committee and, subject to the provisions of sub-section (*3*) the Chief Officer may direct any prosecution for any public nuisance whatever and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act or of any rule or by-law thereunder and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund :

Provided that no prosecution for an offence under this Act or by-laws framed thereunder shall be instituted except within six months [1][next after the date of the commission of the offence or if such date is not known or the offence is a continuing one within six months next after the commission or discovery of such offence].

Jurisdiction of Magistrate ; recovery of compensation and expenses.

(*2*) Any prosecution under this Act or under any rule or by-law thereunder may, save as therein otherwise provided, be instituted, before any Magistrate ; and every fine or penalty imposed under or by virtue of this Act or any rule or by-law thereunder and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Act may be recovered on application.

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[1] These words were substituted for the words " next after the commission of such offence " by Bom. 35 of 1955, s 22.

to any Magistrate by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(*3*) The Chief Officer shall not, except with the previous approval of the standing committee, direct a prosecution or order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections, namely :—

section 55 ; sub-section (*4*) of section 118 ; section 171 ; and
sub-section (*4*) of section 117 ; sub-section (*4*) of section 184

Distress lawful though defective in form.

201. No distress levied or attachment made by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress or attachment or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him ; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Damage to municipal property how made good.

202. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of a municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted ; and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Alternative procedure by suit.

203. In lieu of any process of recovery allowed by or under this Act or in case of failure to realise by such process the whole or any part of any amount recoverable under the provisions of Chapter VIII, or of any compensation, expenses, charges or damages payable under this Act, it shall be lawful for a municipality to sue in any Court of competent jurisdiction the person liable to pay the same.

Power to sue, compromise and pay compensation.

204. (*1*) A municipality may sue in any Court of competent jurisdiction any person who may have in any way caused or may appear likely to cause any injury to any property, rights or privileges of the municipality.

(*2*) A municipality may compound or compromise in respect of any suit instituted by or against it, or, in respect of any claim or demand arising out of any contract entered into by it under this Act for such sum of money or other compensation as it shall deem sufficient :

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract :

[1][Provided further that if any such suit is in respect of land leased or sold under sub-section (*1*) of section 114 or in respect of any immovable property sold or leased for a term exceeding seven years or otherwise transferred, it shall not be lawful for the municipality to compound or compromise in respect of the suit except with the previous sanction of the Commissioner.]

(*3*) A municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its committees, officers and servants under this Act.

(*4*) The municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on its behalf.

Assistance for the recovery of rent on land.

205. For the purpose of the recovery of any amount due on account of rent from any person to a municipality in respect of any land vested in or otherwise held by such municipality, the municipality shall be deemed to be a superior holder and every such person an inferior holder of such land, within the meaning of sections 86

[1] This proviso was added by Bom. 36 of 1949, s. 28.

and 87 of the Bombay Land Revenue Code, 1879 ; and the municipality as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent or land revenue payable to him by an inferior holder. Bom. V of 1879.

Bar of suits against municipality, its officers, servants, etc. for acts done in good faith.

[1][206. No suit shall lie in respect of anything in good faith done or intended to be done under this Act against any municipality or against any committee constituted under this Act or against any officer or servant of a municipality or against any person acting under and in accordance with the directions of any such municipality, committee, officer or servant or of a magistrate.]

Limitation of suits against municipality, its officers and servants for acts done in pursuance of execution of this Act.

[1][206A. (*1*) No suit shall lie against a municipality or against any officer or servant of a municipality in respect of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act—

(*a*) unless it is commenced within six months next after the accrual of the cause of action ; and

(*b*) until the expiration of one month after notice in writing has been, in the case of a municipality, delivered or left at the municipal office and, in the case of an officer or servant of a municipality, delivered to him or left at his office or place of abode ; and all such notices shall state with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his advocate, pleader or agent, if any, for the purpose of the suit.

(*2*) At the trial of any such suit,—

(*a*) the plaintiff shall not be permitted to adduce evidence relating to any cause of action save such as is set forth in the notice delivered or left by him as aforesaid ;

(*b*) if the suit be for damages and if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

(*3*) If the defendant in any such suit is an officer or servant of a municipality, payment of any sum or part thereof payable by him in or in consequence of the suit may, with the sanction of the standing committee, be made from the municipal fund.]

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[1] Sections 206 and 206A were substituted for the original section 206 by Bom. 36 of 1949, s. 29.

Powers of police officers.

207. (*1*) Any Police-officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person is unknown to him, and if he declines to give his name and address or if the Police-officer has reason to doubt the accuracy of such name and address if given ; and such person may be detained at the station house until his name and address has been correctly ascertained :

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(*2*) It shall also be the duty of all Police-officers to give immediate information to the municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder and to assist all municipal officers and servants in the exercise of their lawful authority.

Accounts to be kept.

208. Accounts of the receipts and expenditure of every municipality shall be kept in accordance with the Municipal Account Code subject to such modifications as [1][the Provincial Government] may in each case direct.

CHAPTER XI.

MUNICIPAL ACCOUNTS.

Presentation of accounts. Budget Estimates.

209. (*1*) A municipality shall have prepared and laid before it, at its periodical general meetings, complete accounts of the receipts and expenditure of the municipality since the 1st day of April last preceding, and at a general meeting which shall be held on such day between the 10th January and the 1st of March as may be fixed in this behalf by the rules of the municipality, a complete account of the actual and expected receipts and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the municipality for the financial year to commence on the 1st April next following.

(*2*) The municipality shall thereupon decide upon the appropriation and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose :

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Provided that the standing committee or any other committee appointed under the Act may, within the budget so sanctioned, sanction re-appropriations not exceeding Rs. 500 from one sub-head to another or from one minor head to another minor head under the same major head and controlled by the same committee. A statement of such re-appropriations shall be submitted to the municipality at every quarterly general meeting.

(*3*) The municipality shall at the general meeting in April or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past year.

Audit of accounts.

Bom. XXV of 1930.

210. [1][(*1*) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the municipal accounts may be audited at such intervals and by such agency as may be prescribed in the rules of the municipality.]

(*2*) The auditor shall, for the purposes of his office, have access to all the accounts and other records of the municipality.

Transmission of accounts to [3][State] Government.

211. A municipality shall as soon as the accounts of the past year have been finally passed by it transmit to [2][the [3][State] Government] or any officer duly authorized by it in this behalf, a copy thereof, or an account in such form as [2][the [3][State] Government] may prescribe, and shall furnish such details and vouchers relating to the same as [2][the [3][State] Government] or such officer may from time to time direct.

Publication of accounts.

212. The quarterly and annual accounts, receipts and expenditure, and the budget when sanctioned, shall be open to public inspection, and shall be published in such manner as the municipality may prescribe in this behalf.

[4][CHAPTER XI-A.

Absorption of a village panchayat area into a municipal borough.

Interpretation.

212A. For the purposes of this Chapter, the expression "village panchayat" shall, unless there is anything repugnant in the subject or context, include a person or persons appointed to exercise and to perform the functions of a village panchayat under section 102 of the Bombay Village Panchayats Act, 1933.

Bom. VI of 1933.

Effect of absorption of village panchayat area into municipal borough.

Bom. VI of 1923.

Bom. VI of 1933.

212B. (*1*) Notwithstanding anything contained in this Act or in the Bombay Local Boards Act, 1923, if any local area ceases to be a village by virtue of a notification under section 4 of the Bombay Village Panchayats Act, 1933 (hereinafter in this section referred to as the said local area), and is absorbed in a municipal borough the following consequences shall ensue :—

(*a*) the unexpended balance of the village fund and the property (including arrears of rates, taxes and fees) belonging to the village panchayat of the said local area (herein referred to as the village panchayat) and all rights and powers which prior to such notification, vested in the village panchayat shall subject to all charges and liabilities affecting the same, vest in the municipality of such municipal borough (herein referred to as the municipality) as the municipal fund ;

Bom. VI of 1933.

(*b*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under the Bombay Village Panchayats Act, 1933, immediately before the said date in respect of the

[1] This sub-section was substituted for the original sub-section by Bom. 25 of 1930, s. 16 (*3*).
[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] This Chapter was inserted by Bom. 20 of 1954, s. 4.

said local area shall continue in force and be deemed to have been made, issued, imposed or granted in respect of such municipal borough until it is superseded or modified by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act;

(*c*) all budget estimates, assessments, assessment lists, valuations or measurements, made or authenticated under the Bombay Village Panchayats Act, 1933, immediately before the said date in respect of the said local area shall be deemed to have been made or authenticated under this Act; Bom. VI of 1933.

(*d*) all debts and obligations incurred and all contracts made by or on behalf of the village panchayat immediately before the said date and subsisting on the said date shall be deemed to have been incurred or made by the municipality in exercise of the powers conferred on it by this Act;

(*e*) all officers and servants in the employ of the village panchayat immediately before the said date shall be officers and servants of the municipality under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the municipality subject, however, to the previous sanction of the State Government, to discontinue the services of any officer or servant, who, in its opinion, is not necessary or suitable to the requirements of the municipal service after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are dispensed with shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the village panchayat, in the employ of which he was, had not ceased to exist;

(*f*) all proceedings pending at the said date before the village panchayat shall be deemed to be transferred to and continued by the municipality;

(*g*) all appeals pending before the village panchayat shall, so far as may be practicable, be disposed of as if the said local area had been included in the municipal borough when they were filed;

(*h*) all prosecutions instituted by or on behalf of the village panchayat and all suits or other legal proceedings instituted by or against the village panchayat or any officer of the village panchayat pending at the said date shall be continued by or against the municipality as if the said local area had been included in the municipal borough when such prosecutions, suits or proceedings were instituted.

(*2*) If any difficulty arises in giving effect to the provisions of this section, the State Government may, by order, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty.]

CHAPTER XII.

CONTROL.

Power of inspection and supervision.

213. (*1*) The Commissioner, Collector or any officer of Government authorized by [1][the [2][State] Government] by a general or special order shall have power—

(*a*) to enter on and inspect, or cause to be entered on and inspected any immovable property occupied by any municipality or any institution under its control or management or any work in progress under it or under its direction;

(*b*) to call for or inspect any extract from any municipality's or any committee's proceedings and any book or document in the possession of or under the control of a municipality.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order 1950.

(2) [1][The Director of Local Authorities or the Collector] shall have power—

(*a*) to call for any return, statement, account or report which he may think fit to require such municipality to furnish;

(*b*) to require a municipality to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such municipality or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply to him within a reasonable time, stating its reasons for not desisting from doing, or for not doing, such thing.

Powers of Director of Local Authorities to suspend execution of orders, etc., of municipalities.

[2][**24.** () If, in the opinion of the Director of Local Authorities, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature suspend the execution or prohibit the doing thereof.

(2) When the Director of Local Authorities makes any order under this section he shall forthwith forward to the municipality affected thereby a copy of the order with a statement of the reasons for making it and also submit a report to the State Government along with copies of such order and statement.

(3) The State Government may rescind the order or may revise or modify or confirm the order or direct that the order shall continue to be in force, with or without modification, permanently or for such period as it may specify:

Provided that the order shall not be revised, modified or confirmed by the State Government without giving the municipality reasonable opportunity of showing cause against the order.]

Extraordinary powers of [3][Director of Local Authorities] in case of emergency.

215. () In cases of emergency the [3][Director of Local Authorities] may provide for the execution of any work, or the doing of any act, which may be executed or done by or on behalf of a municipality and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public; and may direct that the reasonable expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality.

(2) If the expense and remuneration are not so paid, the [3][Director of Local Authorities] may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) The provisions of sub-sections (2) and (3) of section 214 shall apply, so far as may be, to any order made under this section.

Power of Commissioner to prevent extravagance in the employment of establishment.

216. If in the opinion of the Commissioner the number of persons who are employed by a municipality as officers or servants, or whom a municipality proposes to employ or the remuneration assigned by the municipality to those persons or to any particular person is excessive the municipality shall, on the requirement of the Commissioner, reduce the number of the said persons or the remuneration of the said person or persons:

Provided that the municipality may appeal against any such requirement to [4][the [5][State] Government] whose decision shall be conclusive.

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[1] These words were substituted for the words "The Collector" by Bom. 26 of 1953, s. 27.
[2] Section 214 was substituted for the original *ibid* s. 28.
[3] These words were substituted for the word 'Collector" *ibid.*, s. 29.
[4] The words "The Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Inquiry into municipal matters by Provincial Government.

217. [1][The Provincial Government] may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any municipal borough or any matters with respect to which its sanction, approval or consent is required under this Act.

(*2*) The officer holding such inquiry shall for the purposes thereof have the powers which are vested in a Court under the Code of Civil Procedure in respect of the following matters :— V of 1908.

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses;

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. V of 1898.

Explanation.—For the purpose of enforcing the attendance of witnesses the local limits of such officer's jurisdiction shall be the limits of the Bombay Presidency.

(*3*) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(*4*) Costs shall be in the discretion of [1][the Provincial Government] and [1][the Provincial Government] shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6 per cent. per annum; and such costs and interest shall be leviable as an arrear of land revenue.

Power of Provincial Government to provide for performance of duties on default by municipality

218. (*1*) When [1][the Provincial Government] is informed, on complaint made or otherwise, that default has been made in the performance of any duty imposed on a municipality by or under this Act or by or under an enactment for the time being in force, [1][the Provincial Government], if satisfied after due inquiry that the alleged default has been made may direct the Commissioner to fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

[2][(*3*) If the expense and remuneration are not so paid, the Commissioner may make an order directing the bank in which any moneys of the municipality are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the municipality are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the municipality in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This sub-section was substituted for the original sub-section (*3*) by Bom. 23 of 1931, s. 4 (*ii*).

by such bank or person ; and such bank or person shall be bound to obey such order. Every payment made persuant to such order shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum or sums so paid by it or him out of the moneys of the municipality so deposited with such bank or person.]

Power of Provincial Government to dissolve or supersede municipality in case of incompetency, default or abuse of power.

219. (*1*) If, in the opinion of [1][the Provincial Government], a municipality is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, exceeds or abuses its powers, [1][the Provincial Government] may, after giving the municipality an opportunity to render an explanation, by an order published, with the reasons therefor, in the [2][*Official Gazette*] declare the municipality to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and may dissolve such municipality or supersede it for a period to be specified in the order.

Consequences of dissolution or supersession.

(*2*) When the municipality is so dissolved or superseded, the following consequences shall ensue :—

(*a*) all councillors of the municipality shall, in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution vacate their offices as such councillors ;

(*b*) all powers and duties of the municipality shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in this behalf ;

(*c*) all property vested in the municipality shall, during the period of dissolution or supersession, vest in His Majesty ;

(*d*) the person or persons appointed under clause (*b*) may delegate his or their powers and duties to an individual or to a committee or sub-committee ;

(*e*) when more than one person are appointed under clause (*b*) they may sue or be sued by any one of them who has been duly authorised to sue and be sued on behalf of the rest by a resolution duly passed by them in this behalf.

Re-establishment of municipality after dissolution.

(*3*) On the issue of an order of dissolution under sub-section (*1*) elections of councillors shall be held under the provisions of this Act or of the rules made thereunder on or before a date to be specified by [1][the Provincial Government] in the order, and the municipality shall be re-established by the election or appointment of councillors under the aforesaid provisions on such date as may be specified by [1][the Provincial Government] in the aforesaid order.

Power after inquiry to continue period of supersession.

(*4*) If, after inquiry made, [1][the Provincial Government] so directs the period of supersession with all the consequences aforesaid shall, from time to time be continued by an order published as aforesaid until such date as may be fixed by [1][the Provincial Government] for the re-establishment of the municipality.

(*5*) After the municipality is superseded it shall be re-established by the election or appointment of councillors under the provisions of this Act or the rules made thereunder applicable thereto,

(*a*) if no direction has been made under sub-section (*4*) on the expiration of the period specified in the order of supersession under sub section (*1*), and

(*b*) if a direction has been made under sub-section (*4*) on such date as is fixed under that sub-section for the re-establishment of the municipality.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

Powers of [2][State] Government and of the Commissioners over Collectors, etc.

20. In all matters, connected with this Act, [1][the [2][State] Government] Commissioners and Collectors shall, respectively, have and exercise the same authority and control over Commissioners, Collectors and their subordinates as in matters of general and revenue administration.

All rules made by [2][State] Government or Commissioner to be laid before each [4][House of the [2][State] Legislature.

221. All rules made by [1][the [2][State] Government] or the Commissioner under this Act shall be laid [3][before each [4][House] of the [2][State] Legislature] for one month previous to the session thereof, and shall be liable to be rescinded or modified by a resolution [5][in which each of the said [4][Houses] concurs during] its next session.

SCHEDULE I.

(See section 4.)

MUNICIPAL BOROUGHS.

Northern Division.

[6][1. Ahmedabad.]
2. Nadiad.
3. Broach.
[9] Kalyan.
[10] Navsari.
4. Surat.
5. Thana.
[7]*
[8]6A. Godhra.
[11] Baroda.
[12] Viramgam.
[13]* *

Central Division.

8. Ahmednagar.
9. Jalgaon.
10. Bhusaval.
11. Amalner.
12. Dhulia.
13. Nasik.
[6][14. Poona city.]
[6][15. Poona Suburban].
16 Lonavla.
17. Satara City.
18. Sholapur.
19. Pandharpur.
[14]20. Chalisgaon.
[15]21. Barsi.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[4] The words " House " and " Houses " were substituted for the words "Chamber" and "Chambers" respectively, by the Adaptation of Laws Order, 1950.

[5] The words " in which each of the said Chambers concurs during " were substituted for the words " of the said Council tabled at " by the Adaptation of Indian Laws Order in Council.

[6] The Bombay Municipal Boroughs Act, 1925 has ceased to apply to the municipal boroughs of Ahmedabad, Poona City and Poona Suburban (*vide* s. 490 read with s. 2(*8*) of Bom. 59 of 1949.)

[7] Godhra Municipal Borough was repealed by Government Notification in the General Department No. 371, dated 29th September 1927, published in the *Bombay Government Gazette*, 1927, Part I-A, p. 56.

[8] Entry 6A was added by G. N., G.D., No. 3759/33, dated 15th February 1944.

[9] This entry was included by G. N., G.D., No. 3413/33, dated 18th December 1939.

[10] This entry was included by G.N., L.S.G. and P.H.D., No. 6271 (4)/33, dated 22nd April 1950.

[11] This entry was included by G.N., L.S.G., and P.H.D., No. 6271 (4)/33(*a*), dated 22nd April 1950.

[12] This entry was included by G.N., L.S.G.and PH.D., No. s. 91, dated 19th July 1950.

[13] The heading " Bombay Suburban " and the entires " Bandra " and " Kurla " were deleted by Bom. 8 of 1950, ss. 5 and 11.

[14] Entry 20 was added by G.N., G.D., No. 9029, dated 28th September 1932.

[15] Entry 21 was added by G.N., G.D., No. 1408/33, dated 6th July 1936.

Central Division—contd.

[1]. Malegaon

[2]. Karad.

Southern Division.

22. Belgaum.
23. Bijapur.
24. Dharwar.
[3]24A. Nipani.
[5]* * *

25. Hubli.
26. Gadag-Bettigeri.
27. Ratnagiri.
[4]*

SCHEDULE II.

(*See clause (b) of section 75.*)

Notice is hereby given to the inhabitants of the municipal borough of that the municipality desire to impose the tax, rate, toll, octroi or cess (*as the case may be*) defined in the rules appended (in lieu of the tax known as the which is published at page of the sanctioned rules*).

*To be inserted if the tax is to be substituted or any existing tax.

Any inhabitant of the municipal borough objecting to the proposed tax may, within one month from the date of this notice, send his objection in writing to the municipality.

RULES.

[*The rules approved by the Municipality under clause (a) of section 75 are to be appended here.*]

SCHEDULE III.

(*See section 88.*)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, *A. B.*, hereby give notice as required by section 88 of the Bombay

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[1] This entry was included G.N., G.D., No. 2221/33, dated 8th December 1938.
[2] This entry was included by G.N., G.D., No. 7779, dated 28th March 1946.
[3] Entry 24A was added by G.N., G.D., No. 5296/33, dated 6th June 1944.
[4] The entires 28 to 31 relating to Sind were deleted by the Adaptation of Laws Order, 1950.
[5] Kolhapur and Ichalkaranji have been continued as Borough Municipalities from the date of merger of the Kolhapur State.

[1][Municipal Boroughs] Act, 1925, of the following transfer of property :—

Date of Notice.	Date of instrument.	Name of vendor or assignor.	Name of purchaser or assignee.	Amount of consideration.	DESCRIPTION OF THE PROPERTY.						If any instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.		

Dated

(Signed)

SCHEDULE IV.

(See section 88.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, *A. B.*, hereby give notice as required by section 88 of the Bombay [1][Municipal Boroughs] Act, 1925, of the following transfer of property :—

Date of Notice.	Name in which the property is at present entered in the Chief Officer's record	To whom it is to be transferred.	DESCRIPTION OF THE PROPERTY.						Remarks.
			Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.	

Dated

(Signed)

[1] The words "Municipal Boroughs" were substituted for the words "City Municipalities" by Bom. 24 of 1936, sec. 2, Schedule.

SCHEDULE V.

(See sub-section (3) of section 104.)

FORM OF NOTICE OF DEMAND.

To

A. B., residing at

Take notice that the municipality of demand from the sum of due from on account of

(Here describe the property or other thing in respect of which the tax is leviable.)

leviable under rule No. for the period of commencing on the day of 19 , and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at , and sufficient cause for non-payment is not shown to the satisfaction of the Chief Officer, a warrant of distress or attachment will be issued for the recovery of the same with costs.

Dated this day of 19 .

(Signed)

Chief Officer.

SCHEDULE VI.

(See sub-section (1) of section 105.)

FORM OF WARRANT.

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas A. B. of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 , and ending with the day of 19 , and leviable under rule No. ;

*Here describe the tax.

And whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you to distrain / attach subject to the provisions of section 105 of [1][the Bombay Municipal Boroughs Act, 1925] the goods and chattels / any property of the said A. B. to the amount of .....being the amount due from him, as follows :—

	Rs.	a.	p.
On account of the said tax ...			
For service of notice ...			
[2][For issue of warrant] ...			

and forthwith to certify to me together with this warrant all particulars of the goods distrained / property attached by you thereunder.

Dated this day of 19 .

(Signed)

Chief Officer.

SCHEDULE VII.

(See clause (c) of sub-section (4) of section 105 and sub-section (1) of section 98.)

FORM OF INVENTORY AND NOTICE.

To

A. B., residing at

Take notice that I have this day distrained / attached the goods and chattels / property specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 together with Rs. due as for service of notice of demand [3][and Rs. due as for issue for warrant] and that unless within five days from the day of the date of this notice you pay into the municipal office at the said amount together with the costs of recovery, the said goods and chattels / property will be sold.

*Here describe the tax.

Dated this day of 19 .

Signature of officer executing the warrant / collecting octroi

Inventory.

(Here state particulars of goods and chattels / property seized.)

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[1] These words and figures were substituted for the words "the Bombay City Municipalities Act" by Bom. 36 of 1949, s. 30.
[2] These words were inserted by Bom. 12 of 1931, s. 3 (r).
[3] These words were added by Bom. 19 of 1935, s. 15.

THE INVALIDATION OF HINDU CEREMONIAL EMOLUMENTS ACT, 1926.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title
2. Extent and commencement.
3. Definitions.
4. Right to claim ceremonial emoluments.
5. Hereditary priest may be relieved of his obligation to perform services.
6. Extent to which rights of hereditary Hindu priest or his alienee affected under the Act.

BOMBAY ACT No. XI OF 1926.[1]

[THE INVALIDATION OF HINDU CEREMONIAL EMOLUMENTS ACT, 1926]

[*13th October 1926.*]

An Act to amend the law relating to the emoluments claimable by hereditary Hindu priests.

WHEREAS it is expedient to amend the law relating to the emoluments claimable by hereditary Hindu priests and whereas the previous sanction of the Governor General required under section 80-A (*3*) of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

1. This Act may be called the Invalidation of Hindu Ceremonial Emoluments Act, 1926. Short title.

2. (*1*) This Act shall apply to the whole of the Presidency of Bombay. Extent and commencement.

(*2*) It shall come into operation on the first day of April 1928.

3. In this Act— Definitions.

"Ceremonial emoluments" means all perquisites, fees and any other dues claimable by any person for religious ceremonials, on account of his being a hereditary priest or an alienee from a hereditary priest.

4. No person shall be entitled to claim, as a matter of right, any ceremonial emoluments from any Hindu who does not call in the services of the persons claiming those emoluments. Right to claim ceremonial emoluments.

5. After this Act comes into operation—

(*i*) every hereditary priest who holds no inam land or receives no cash allowance as remuneration for the performance of his services to the village shall be deemed to be relieved of his obligation to perform such services when required by any villager to officiate or to provide a substitute to officiate at any religious ceremony in the village. Hereditary priest may be relieved of his obligation to perform services.

(*ii*) a hereditary priest who holds inam lands or receives a cash allowance as remuneration for the performance of his services shall, at his option, on written application to the Collector, be relieved of his obligation to perform such services when required by any villager to officiate or to provide a substitute to officiate at any religious ceremony in the village if he agrees to pay full revenue assessment on his inam lands or, as the case may be, to forego his cash allowance; provided that such option shall be allowed to be exercised once only in the case of each inam grant.

6. Nothing in this Act shall affect the rights of a hereditary Hindu priest or an alienee from such priest to the inam lands or cash allowance attached to his office for the performance of any service pertaining to it, except to the extent specified herein. Extent to which rights of hereditary Hindu priest of his alienee affected under the Act.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, p. 488; for Report of the Select Committee, *see ibid.*, 1926, Part V. pp. 81-83; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1925, Vol. XVI, and 1926, Vols. XVII and XVIII.

THE BOMBAY NON-AGRICULTURISTS' LOANS ACT, 1928.

CONTENTS.

PREAMBLE.

SECTIONS.

1 Short title.

2. Extent.

3. Purpose for which loans may be granted.

4. Loans already granted to be deemed to have been granted under Act.

5. Recovery of loans.

6. Power to make rules.

BOMBAY ACT No. III OF 1928.[1]

[THE BOMBAY NON-AGRICULTURISTS' LOANS ACT, 1928.]

[*30th March 1928.*]

Amended by Bom. 11 of 1928.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 6 of 1949.

An Act to provide for the grant of loans by Government to non-agriculturists [2][for certain purposes] and for the recovery of such loans.

WHEREAS it is expedient to provide for the grant of loans by Government to non-agriculturists [3][for certain purposes] and for the recovery of such loans in manner hereinafter appearing:

And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A and the previous sanction of the Governor required by section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. This Act may be called "the Bombay Non-Agriculturists Loans Act, 1928" Short title.

2. Section 1 and this section extend to the whole of the Bombay Presidency. The rest of the Act may be extended by the [3][Provincial Government] by notification in the [4][*Official Gazette*] to any part of the Presidency from such date as may be specified in such notification. Extent.

†**3** Subject to such rules as may be made under section 6, loans may be granted under this Act [5][for erecting, rebuilding or repairing houses, for building or repairing boats] or for the relief of distress to any person to whom a loan under the [6]Agriculturists' Loans Act, 1884, cannot be granted. Purpose for which loans may be granted

XII of 1884.

4. All loans granted after the 1st day of August 1927 to such persons as are referred to in section 3 for the purpose mentioned therein shall be deemed to be loans granted under this Act. Loans already granted to be deemed to have been granted under Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1928, Pt. V, p 7; and for proceedings in Council, *see* Bombay Legislative Council Debates, 1928, Vol. XXII.

[2] These words were substituted by Bom. 6 of 1949, s. 3.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] These words were substituted for the original by Bom. 6 of 1949, s. 4.

[6] *See* Central Acts.

† The provisions of sections 3 to 6 have been extended to the district of West Khandesh with effect from 25th September 1944 [*vide* G. N., R. D., No. 10517 39, dated 25th September 1944].

Recovery of loans.

5. [1]* All loans granted or deemed to have been granted under this Act, together with all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same shall be recoverable at the discretion of the Collector in any one or more of the following modes, namely :—

(*a*) from the borrower—as if they were arrears of land revenue due by him;

(*b*) from his surety (if any)—as if they were arrears of land revenue due by him;

(*c*) out of the assets left by a deceased borrower or surety or out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land revenue by the sale of a defaulter's moveable or immovable property other than the land on which that revenue is due;

(*d*) if the loan is for the benefit of a house, out of such house,—as if it were arrears of land revenue due in respect of the land on which the house stands.

Power to make rules.

[2]6. (*1*) The [3][Provincial Government] may, from time to time, by notification in the [4][*Official Gazette*], make rules to carry out the purpose of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for the following matters, namely :—

(*a*) the manner of making applications for loans;

(*b*) the officers by whom loans may be granted;

(*c*) the nature of the security, if any, to be taken for the due application and repayment of the money, the rate of interest at which and the conditions under which the loans may be granted and the manner and term of granting loans; and

(*d*) the instalments by which and the mode in which loans shall be repaid.

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[1] The figure and brackets "(*1*)" were repealed by Bom. 11 of 1928, s. 3, and Second Schedule.

[2] For Rules under this section, *see* Government Notification in the Finance Department No. 6004-E. dated the 1st December 1930, published in the *Bombay Government Gazette*, 1930, Part I, pp. 2951-58.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

The Bombay Universny Act, 1928 (Bom. IV of 1928), at pages 1717—1740 has been repealed by the Bombay University Act, 1953 (Bom. XXXI of 1953), section 64.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1929.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. [*Omitted.*]
3. Amendment of section 13 of Act XVI of 1908.
4. Amendment of section 21 of Act XVI of 1908.
5. Amendment of section 22 of Act XVI of 1908.
6. Amendment of section 36 of Act XVI of 1908.
7. Amendment of section 51 of Act XVI of 1908.
8. Amendment of section 54 of Act XVI of 1908.
9. Amendment of section 55 of Act XVI of 1908.
10. Amendment of section 57 of Act XVI of 1908.
11. Amendment of section 69 of Act XVI of 1908.
12. Amendment of section 89 of Act XVI of 1908.

BOMBAY ACT No. V OF 1929.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1929.]

[*22nd May 1929.*]

Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908. WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay in manner hereinafter appearing; 5 & 6 Geo. V, c. 61. and whereas the previous sanction of the Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called the Indian Registration (Bombay Amendment) Act, 1929. Short title.

2. [3]* * *

3. In section 13 of the said Act, Amendment of section 13 of Act XVI of 1908.

(*1*) sub-sections (*1*) and (*2*) shall be repealed; and

(*2*) after the word "Sub-Registrars" the words "and Inspectors of Registration offices" shall be inserted.

4. To sub-section (*2*) of section 21 of the said Act the following shall be added, namely:— Amendment of section 21 of Act XVI of 1908.

"In all city surveyed areas in the Bombay Presidency, houses and lands shall also be described by their cadastral survey numbers as in the city survey maps and records."

5. In sub-section (*2*) of section 22 of the said Act for the word "Save" the words "Except in the case of city surveyed areas in the Bombay Presidency and except" shall be inserted. Amendment of section 22 of Act XVI of 1908.

6. In section 36 of the said Act for the words "may in his discretion" the words "in his discretion, may, upon receipt of the prescribed fee, issue, or may" shall be substituted; and after the word "issue" a comma shall be inserted. Amendment of section 36 of Act XVI of 1908.

7. In sub-section (*2*) of section 51 of the said Act after the figures "89" the words and figures "sub-sections (*2*) and (*4*)" shall be inserted. Amendment of section 51 of Act XVI of 1908.

8. In section 54 of the said Act after the word "books" where it occurs for the second time the words "and there shall also be prepared current indexes of the contents of the copies filed under sub-sections (*1*) and (*3*) of section 89" shall be inserted. Amendment of section 54 of Act XVI of 1908.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1929, Part V, p. 8; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1929, Vol. XXV.

[2] *See* Central Acts.

[3] The proviso which added to section 8 of the Indian Registration Act, 1908, by this Act was omitted by the daptation of Indian Laws Supplementary Order in Council.

Amendment of section 55 of Act XVI of 1908.

9. In section 55 of the said Act,

(*a*) for sub-section (*1*) the following shall be substituted, namely :—

" (*1*) six such indexes shall be made in all registration offices and shall be named, respectively, Index No. I, Index No. I-A, Index No. II, Index No. II-A, Index No. III and Index No. IV ; "

(*b*) after sub-section (*2*) the following sub-section shall be inserted, namely :—

" (*2A*) Index No. I-A shall contain the names including the father's name, or, in the case of persons usually described by their mother's name, the mother's name and the places of residence of all persons executing, and of all persons claiming under, the documents of which copies are filed under sub-section (*1*) or (*3*) of section 89 ; "

(*c*) after sub-section (*3*) the following sub-section shall be inserted, namely :—

" (*3A*) Index No. II-A shall contain such particulars mentioned in section 21 as the Inspector-General may, from time to time, prescribe in this behalf in regard to every copy filed under sub-section (*1*) or (*3*) of section 89 ; "

(*d*) for the words " and additions " wherever they occur the words " including the father's name, or, in the case of persons usually described by their mother's name, the mother's name, and the places of residence " shall be substituted.

Amendment of section 57 of Act XVI of 1908.

10. In sub-section (*1*) of section 57 of the said Act after the words and figures " Book No. I " the following words and figures shall be inserted, namely :—

" and, so long as they are preserved, the copies filed under sub-sections (*1*) and (*3*) of section 89 and the indexes relating to such copies."

Amendment of section 69 of Act XVI of 1908.

11. In clause (*h*) of sub-section (*1*) of section 69 of the said Act, after the figures " I " and " II " the figures " I-A " and " II-A " respectively shall be inserted.

Amendment of section 89 of Act XVI of 1908.

12. In sub-sections (*1*) and (*3*) of section 89 of the said Act for the words and figure " Book No. I " the word " office " shall be substituted.

THE BOMBAY MATERNITY BENEFIT ACT, 1929.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extent and operation.
3. Definitions.
4. Employment of or work by women in factories prohibited during certain period.
5. Right to payment of maternity benefit.
6. Procedure regarding payment of maternity benefit.
7. Payment of maternity benefit in case of a woman's death.
8. No notice of dismissal to be given to a woman during period of maternity benefit.
9. Forfeiture of maternity benefit.
10. Penalty for contravention of the Act by an employer.
11. Penalty for contravention of the Act by a woman.
12. Cognisance of offences.
13. Limitation of prosecutions.
14. Rules.
15. Copies of this Act and rules thereunder to be exhibited.

BOMBAY ACT No. VII OF 1929.[1]

[THE BOMBAY MATERNITY BENEFIT ACT, 1929.]

[*23rd May 1929.*]

Amended by Bom. 5 of 1934.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them in the manner hereinafter provided; and Whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. This Act may be called the Bombay Maternity Benefit Act, 1929. Short title.

2. (*1*) This Act shall apply in the first instance to the Bombay Suburban District and the cities of Bombay, Ahmedabad, Viramgam, Surat, Broach, Jalgaon, Sholapur, Belgaum. [2][and Amalner] [3][The [4][State] Government] may from time to time, by notification in the [5][*Official Gazette*] extend* this Act to such other places as it thinks fit. Extent and operation.

(*2*) It shall come into operation on the first day of July 1929.

3. In this Act, unless there is anything repugnant in the subject or context,— Defintions.

XII of 1911.

(*a*) "employer" includes an occupier of a factory as defined in the [6]Indian Factories Act, 1911, and the manager of a factory.

XII of 1911.

(*b*) the expressions "employ", "employed", "factory", and "inspector of factories" shall have the same meanings as are respectively assigned to them under the [6]Indian Factories Act, 1911.

(*c*) "maternity benefit" means the amount of money payable under the provisions of this Act to a woman employed in a factory.

[7][(*d*) "wages" includes the money value of any earned grain concession, and any money paid to cover high cost of living but does not include a bonus given for regular attendance, or any deduction or payment made on account of fines.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1928, Part V, p. 15; for Report of the Select Committee, *see ibid*, 1928, Part V, p. 132; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1928, Vol. XXIII and 1929, Vol. XXV.

[2] These words were substituted for the words "Amalner and Karachi" by the Adaptation of Laws Order, 1950.

[3] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "*Official Gazette*" were substituted for the "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[6] See now the Factories Act, 1948 (63 of 1948).

[7] Clause (*d*) was inserted by Bom. 5 of 1934, s. 2.

*This Act was extended to the Districts of East and West Khandesh, Sholapur, Dharwar, Thana and Kaira and to the City of Poona with effect from the 1st July 1931 (*vide* Political Department, Notification No. 8178, dated the 26th May 1931, published in the *Bombay Government Gazette*, 1931, Part I, p. 1335).

Employment of or work by women in factories prohibited during certain period.

4. After this Act comes into operation—

(*1*) no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her delivery; and

(*2*) no woman shall work in any factory during the four weeks immediately following the day of her delivery.

Right to payment of maternity benefit.

5. (*1*) Subject to the provisions of this Act, every woman employed in a factory shall be entitled to the payment of maternity benefit at the rate of eight annas a day [1][in the cities of Bombay, [2][and Ahmedabad] and elsewhere at the rate of her average daily wage calculated to the nearest quarter of an anna on the total wages earned during a period of three months immediately preceding the date on which she gives notice under sub-section (*1*) of section 6, or at the rate of eight annas a day, whichever is less] for the actual days of her absence for the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (*2*):

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than [3][nine] months immediately preceding the date on which she [4][gives notice] under sub-section (*1*) of section 6.

(*2*) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be [5][eight] weeks, that is to say, [5][four] weeks up to and including the day of her delivery and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

Procedure regarding payment of maternity benefit.

6. (*1*) Any woman employed in a factory and entitled to maternity benefit under the provisions of this Act, who is pregnant may, on any day, give notice in writing to her employer stating that she expects to be confined within one month next following, that her maternity benefit may be paid to her, and that she will not work in any employment during the period for which she received maternity benefit.

(*2*) The employer shall thereupon permit such woman to absent herself from the factory from the following day until four weeks after the day of her delivery.

[6](*3*) Maternity benefit shall be paid by the employer to the woman entitled thereto after taking her wishes into consideration in any one of the following three ways, namely:—

(*i*) for four weeks—within forty-eight hours of the production of a certificate signed by a registered medical practitioner certifying that the woman is expected to be confined within one month next following, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (*2*) of section 5—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child; or

(*ii*) for the period up to and including the day of delivery—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (*2*) of section 5—punctually four weeks after the production of such certified extract from a birth register; or

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[1] These words, figures and brackets were inserted by Bom. 5 of 1934, s. 3.

[2] These words were substituted for the words "Ahmedabad and Karachi" by the Adaptation of Laws Order, 1950.

[3] The word "nine" was substituted for the word "six" by Bom. 5 of 1934, s. 3.

[4] The words "gives notice" were substituted for the words "notifies her intention", *ibid.*

[5] The words "eight" and "four" were substituted for the words "seven" and "three", *ibid.*

[6] This sub-section was substituted for the original sub-section (*3*), *ibid*, s. 4.

(*iii*) for the entire period for which the woman is entitled to maternity benefit under sub-section (*2*) of section 5—within forty-eight hours of the production within six weeks of her delivery of a certified extract from a birth register stating that she has given birth to a child ;

Provided that no woman shall be entitled to any maternity benefit or any part thereof the payment of which is dependent upon the production of a certified extract from a birth register under the provisions of this sub-section unless such extract has been produced within six months of the day of her delivery.

Payment of maternity benefit in case of a woman's death.

7. If a woman entitled to maternity benefit under this Act dies during the period for which she is entitled to maternity benefit the employer shall pay the amount of maternity benefit due, if the newly born child survives her, to the person who undertakes the care of the child ; and if the child does not survive her to her legal representative.

No notice of dismissal to be given to a woman during period of maternity benefit.

8. When a woman absents herself from work in accordance with the provisions of this Act it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

Forfeiture of maternity benefit.

9. If a woman works in any factory after she has been permitted by her employer to absent herself under the provisions of section 6 she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Penalty for contravention of the Act by an employer.

10. If any employer contravenes the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Penalty for contravention of the Act by a woman.

11. If any woman works in any factory within four weeks of the date of her delivery she shall be liable on conviction, to a fine not exceeding ten rupees.

Cognisance of offences.

12. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the inspector of factories.

(*2*) No court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Limitation of prosecutions.

13. No Court shall take cognisance of any offence against this Act or any rule thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Rules.

14. (*1*) The [1][[2][State] Governmont] may make [3]rules for the purpose of carrying into effect the provisions of this Act.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] For Rules under this section, *see* Government Notification in the G. D. No. 1066, dated the 2nd August 1929, published in the *Bombay Government Gazette*, 1929, Part I, pp. 1703-1705.

For amendments in the above Rules, *see*

Political and Reforms Department Notification No. 9699-II, dated the 1st June 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 1340.

Political and Reforms Department Notification No. 9721, dated the 7th December 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 2876.

Political and Reforms Department Notification No. 9721, dated the 29th January 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 245.

Political and Reforms Department Notification No. 8574-II, dated the 20th September 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 2096.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

[1](*a*) the preparation and maintenance of a muster roll or register or a combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under section 35 of the [2]Indian Factories Act, 1911; XII of 1911.

(*b*) the inspection of factories for the purposes of this Act by inspectors of factories;

(*c*) the exercise of powers and the performance of duties by inspectors of factories for the purposes of this Act;

(*d*) the method of payment of maternity benefit in so far as provision has not been made in this Act; and

(*e*) any other matter for which no provision has been made in this Act and for which provision is in, the opinion of the [3][[4][State] Government], necessary.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [5][before each [6][House] of the [4][State] Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [7][by a Resolution in which both the [6][Houses] concur]. If any rule is modified the [3][[4][State] Government] may accept the modification and reissue the rule accordingly or may rescind the rule.

Copies of this Act and rules thereunder to be exhibited.

15. [8][An abstract] of the provisions of this Act and the rules thereunder in the local vernacular shall be exhibited in a conspicuous [9][manner] by the employer in every [10][part of a] factory in which women are employed.

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[1] Clause (*a*) was substituted for the original clause (*a*) by Bom. 5 of 1934, s. 5.

[2] *See* now the Factories Act, 1948 (63 of 1948).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council", by the Adaptation of Indian Laws Order in Council.

[6] The words "House" and "Houses" were substituted for the words "Chamber" and Chambers" respectively by the Adaptation of Laws Order, 1950.

[7] These words were inserted by the Adaptation of Indian Laws Order in Council.

[8] The words "An abstract" were substituted for the words "A copy" by Bom. 5 of 1934, s. 6.

[9] The word "manner" was substituted for the word "place", *ibid.*

[10] The words "part of a" were inserted, *ibid.*

THE BOMBAY BORSTAL SCHOOLS ACT, 1929.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extent and commencement.
3. Definitions.
4. Establishment of Borstal schools.
5. Application of the Prisons Act, 1894, and the Prisoners Act, 1900.
6. Court may pass order for detention in a Borstal school.
7. Power of Provincial Government to exempt.
8. Courts empowered to pass order for detention.
9. Procedure when Magistrate is not empowered to pass an order under this Act.
10. Limitation on powers conferred by section 6.
11. Transfer from prison to Borstal school.
12. Transfer of incorrigibles, etc., to prison.
13. Provincial Government to determine the Borstal school in which a person shall be detained and may order removal.

13A. Power to order detention in, or removal of offenders to, a Borstal school in another province.

Power to accept transfers of offenders from another province to a Borstal school in the Presidency.

13B. Removal of person detained to civil hospital in Province for medical treatment.

14. Power to release on licence.
15. Revocation of licence.
16. Subsequent supervision.
17. Period of detention.

17A. Discharge from Borstal school.

17B. Investigating Committee to investigate into complaints against offenders discharged on probation, etc.

18. Arrest of offender escaping from Borstal school, or escaping from supervision.
19. Rules.
20. Removal of disqualification.
21. Appeal or revision.

BOMBAY ACT No. XVIII OF 1929.[1]

[THE BOMBAY BORSTAL SCHOOLS ACT, 1929.]

[*25th November 1929*]

Amended by Bom. 10 of 1932.
,, ,, ,, 3 of 1934.
,, ,, ,, 18 of 1935.
,, ,, ,, 2 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 3 of 1948.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 23 of 1951.

An Act to provide for the establishment of Borstal Schools in the Presidency of Bombay.

WHEREAS it is expedient to provide for the establishment of Borstal schools in the Presidency of Bombay ; and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act ; It is hereby enacted as follows :—

5 & 6 Geo V, c. 61.

1. This Act may be called the Bombay Borstal Schools Act, 1929. Short t

2. (*1*) This Act shall apply to the whole of the Presidency of Bombay. Extent and commence-ment.

(*2*) It shall come into operation on such date as the [2][3][State] Government] may, by notification in the [4][*Official Gazette*], appoint in this behalf.

3. In this Act, unless there is anything repugnant in the subject or context :— Definitions.

(*a*) " Borstal school " means a place in which young offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime ;

(*b*) " Inspector-General " means the Inspector-General of Prisons and includes any officer appointed by the [2][3][State] Government] to perform all or any of the duties imposed by this Act on the Inspector-Gneral ;

(*c*) " Prescribed " means prescribed by rules made under this Act.

4. (*1*) For the purposes of this Act the [2][3][State] Government] may establish one or more Borstal schools. Establish-ment of Borstal schools.

(*2*) For every Borstal school, a visiting committee shall be appointed in such manner as may be prescribed.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1929, Part V, p. 129 ; for Report of the Select Committee, *see ibid.*, 1929, Part V, p. 143, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1929, Vols. XXVI ond XXVII.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ". by the Adaptation of Indian Laws Order in Council.

Application of the Prisons Act, 1894, and the Prisoners Act, 1900.

5. Subject to any alterations, adaptations, and exceptions made by this Act and the rules framed under it, the [1]Prisons Act, 1894, and the [1]Prisoners Act, 1900, and the rules framed thereunder shall apply in the case of every Borstal school established under this Act as if it were a prison and the inmates prisoners. IX of 1894. III of 1900.

Court may pass order for detention in a Borstal school.

6. When an offender is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or is liable to imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, 1898, whether any previous conviction is proved against him or not, and it appears to the Court— V of 1898.

(*a*) that the offender is not less than sixteen or, in any district or place in which the Bombay Children Act 1924, is not in operation less than fifteen, nor more than twenty-one years of age · and Bom. XIII of 1924.

(*b*) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation,

it shall be lawful for the Court, if empowered in this behalf, to pass, in lieu of a sentence of transportation or imprisonment, or of an order of imprisonment under section 123 of the Code of Criminal Procedure, 1898, an order for the detention of the offender in a Borstal school [2][established under this Act or subject to the provisions of section 13-A, in a Borstal school in any other [3][State] in [4]* India] for such term, not being less than [5][three] years nor more than five years, as the Court subject to rules made under this Act, thinks fit : V of 1898.

Provided that before passing such an order the Court shall give an opportunity to the parents or guardians of the said offender to be heard and shall consider any report or representation which may be made to it as to the suitability of the case for treatment in [6][such Borstal school], and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid.

Power of [8][State] Government to exempt.

7. The [7][[8][State] Government] may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Borstal school.

Courts empowered to pass order for detention.

8. The powers conferred on Courts by this Act shall be exercised only by the High Court, a Court of Session, [9]* * * * * a salaried Presidency Magistrate, or a Magistrate of the first class and may be exercised by such Courts whether the case comes before them originally, or on appeal or in revision.

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[1] *See* Central Acts.

[2] These words, figures and letter was inserted by Bom. 2 of 1936, s. 2 (*1*).

[3] This word was substituted for the word " province " by the Adaptation of Laws Order, 1950.

[4] The word " British " was omitted by the Adaptation of Laws Order, 1950.

[5] The word " three " was substituted for the word " two " by Bom. 17 of 1935, s. 2.

[6] The words " such Borstal school " were substituted for the words " a Borstal school " by Bom. 2 of 1936, s. 2 (2).

[7] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[8] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[9] The words " a District Magistrate, a sub-divisional Magistrate " were deleted by Bom. 23 of 1951, s. 2, Schedule—Part III.

Procedure when Magistrate is not empowered to pass an order under this Act.

9. (*1*) When any Magistrate not empowered to pass an order for detention under this Act is of the opinion that an offender who has been found guilty by him or who has failed to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code of Criminal Procedure, 1898, is a proper person to be detained in a Borstal school, he may, without passing any order, record such opinion and submit his proceedings and forward the offender to the [1][Magistrate of the first class] or the Chief Presidency Magistrate, as the case may be, to whom he is subordinate.

V of 1898.

(*2*) The [1][Magistrate of the first class] or Chief Presidency Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act, or, as the case may be, to a salaried Presidency Magistrate.

(*3*) The [1][Magistrate of the first class] or Chief Presidency Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further enquiry (if any) as he may think fit and may pass such order for the detention of the offender in a Borstal school, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

Limitation on powers conferred by section 6.

10. Any offender detained in a Borstal school for failure to furnish security when ordered to do so under section 106 or section 118 of the Code of Criminal Procedure, 1898, shall be released on furnishing such security or on the passing of an order under section 124 of the said Code.

V of 1898.

Transfer from prison to Borstal school.

[2]**11.** (*1*) If the Inspector-General is satisfied that a person undergoing transportation or imprisonment in consequence of a sentence [3][passed under any law or undergoing imprisonment under an order made under section 123 of the Code of Criminal Procedure, 1898, for failure to give security] being within the limits of age within which persons may be ordered to be detained in a Borstal school, by reason of his criminal habits or tendencies, or association with persons of bad character, might with advantage be detained in a Borstal school, the Inspector-General may by order in writing direct such person to be transferred from prison to a Borstal school [4][established under this Act or subject to the provisions of section 13A, to a Borstal school in any other [5][State] in [6]* India and to be detained in such school, in lieu of the unexpired residue of his sentence, [7][or of the period of imprisonment which he is liable to undergo for failure to give security, as the case may be,] for such period as together with the period of transportation or imprisonment already undergone will not exceed the maximum period for which such person could have been ordered to be detained by a Court under section 6 :

V of 1898.

Provided that the Inspector-General shall not, without the previous sanction of [8][the [9][State] Government], direct such person to be detained in a Borstal school for a period which including the period of imprisonment or transportation

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[1] These words wese substituted for the words "District Magistrate" by Bom. 23 of 1951, s. 2, Schedule, Pt. III.

[2] This section was substituted for the original s. 11 by Bom. 3 of 1934, s. 2.

[3] These words were substituted for the original by Bom. 39 of 1948, s. 2.

[4] These words, figures and letter were inserted by Bom. 2 of 1936, s. 3.

[5] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[6] The word "British" was omitted by the Adaptation of Laws Order, 1950.

[7] These words were inserted by Bom. 39 of 1948, s. 2.

[8] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[9] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

undergone exceeds the period of imprisonment or transportation to which such person has been sentenced [1][or the period of imprisonment which he is liable to undergo for failure to give security, as the case may be.].

(*2*) A person transferred to a Borstal school under sub-section (*1*) shall upon transfer to such school be deemed to be an offender ordered to be detained by a Court under the provisions of section 6 and the provisions of the Act shall apply to such person accordingly.

Transfer of incorrigibles, etc., to prison.

12. (*1*) Where an offender detained in a Borstal school escapes, or is reported to the [2] [[3][State] Government] by the Inspector-General to be incorrigible or to exercise [4][or to be likely to exercise] a bad influence on the other inmates of the school, [5][or to be more than twenty years of age], [6][or where a licence granted under section 14 is revoked by the [3][State] Government under clause (*ii*) of the proviso to sub-section (*1*) of section 15 or is, in the opinion of the [3][State] Government, otherwise unsuitable for training in a Borstal school], the [2][[3][State] Government] may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the [2][[3][State] Government] may determine, but in no case exceeding the shorter of the following two periods :—

(*a*) the unexpired residue of the term of detention, or

(*b*) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal school [7][or ordered to be transferred to and detained in such school by the Inspector-General].

(*2*) Such offender may be confined in any prison within the Bombay Presidency by warrant under the hand of a Secretary to [8][the [3][State] Government] and effect shall be given to such warrant and the sentence of imprisonment passed upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

[3][State] Government to determine the Borstal school in which a person shall be detained and may order removal.

13. (*1*) Every offender ordered to be detained in a Borstal school shall be detained in such Borstal school as the [2][[3][State] Government] may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained :

Provided, that, if accommodation in a Borstal school is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of a prison as the [2][[3][State] Government] may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

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[1] These words were inserted by Bom. 39 of 1948, s. 2.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were inserted by Bom. 39 of 1948, s. 3.

[5] The words "or to be more than twenty years of age", were inserted by Bom. 10 of 1932, s. 2.

[6] This portion was inserted by Bom. 39 of 1948, s. 3.

[7] These words were added by Bom. 3 of 1934, s. 3.

[8] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) The [1][[2][State] Government] may order the removal of any offender from any one Borstal school to any other Borstal school, [3][established under this Act or to a Borstal school in any other [4][State] in [5]* India] [6]* * * * provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

Power to order detention in, or removal of offenders to, a Borstal school in another [4][State]

[7][13A. (*1*) No order for the detention in or transfer or removal to a Borstal school in any other [4][State] in [5]* India [6]* * * shall be passed except with the previous concurrence of the officer in charge of such Borstal school and unless the [8][[2][State] Government] of the said [4][State] [9]* * * under any law in force therein or by general or special order, has consented, or is empowered, to receive such offender for detention in such Borstal school;

Power to accept transfers of offenders from another [4][State] to a Borstal School in the Presidency.

(*2*) The officer in charge of a Borstal school established under this Act may, subject to the rules made in this behalf, give effect to any order for the detention therein of any person passed by any authority under any enactment in force in any other [4][State] [5]* India [6]* * *. A person detained in such Borstal school under this provision shall be deemed to be an offender ordered to be detained under the provisions of section 6 and the provisions of this Act shall apply to such person accordingly.

Removal of person detained to civil hospital in [4][State] for medical treatment.

[10][13B. (*1*) If an offender detained in a Borstal school is suffering from any illness and the Inspector-General is satisfied that it is not possible to render to him proper medical care or treatment in the school, the Inspector-General may provide for the removal of such offender to any civil hospital in the [4][State] for the purpose of undergoing medical treatment and for his return to the school after such treatment is undergone.

(*2*) The period during which an offender is absent from a Borstal school under sub-section (*1*) shall, for the purposes of computing his term of detention in the school, be deemed to be part of that detention.]

Power to release on licence.

14. (*1*) Subject to the prescribed conditions, the Inspector-General may on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal school, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written licence in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such—

(*a*) [11][Government officer],

(*b*) secular institution,

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were inserted by Bom. 2 of 1936, s. 4.

[4] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[5] The word "British" was omitted, *ibid.*

[6] The words "or in an Acceding State" were omitted, *ibid.*

[7] Section 13A was inserted by Bom. 2 of 1936, s. 5.

[8] The words "Provincial Government" were substituted for the words "Local Government by the Adaptation of Indian Laws Order in Council.

[9] The words "or the Government of the said Acceding State" were omitted by the Adaptation of Laws Order, 1950.

[10] This section was inserted by Bom. 39 of 1948, s. 6.

[11] These words were substituted for the words "servant of the Crown" by the Adaptation of Laws Order, 1950.

(*c*) religious society, or

(*d*) responsible person, as may be approved by the Inspector-General and willing to take charge of the offender.

[1][1A) The Inspector-General may, subject to the prescribed conditions, discharge any offender who had been previously granted a licence but whose licence was subsequently revoked under section 15 and grant him a fresh written licence and in such case the provisions of this Act shall apply as if such fresh licence had been granted under sub-section (*1*).]

(*2*) A licence under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal school, unless sooner revoked.

(*3*) The period during which an offender is absent from a Borstal school during the continuance of a licence granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

Revocation of licence.

15. (*1*) Subject to the prescribed conditions, the Inspector-General may at any time [2][and in the case of a request made by] the institution, society or person, under whose supervision and authority the offender has by licence been permitted to live [3][shall, after considering the report of the Investigating Committee submitted to him under section 17B] revoke a licence granted under section 14, and upon such revocation the offender shall be detained in a Borstal school until the expiry of the term for which he was ordered to be detained in such school :

[4][Provided that, if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school, the Inspector-General shall forward the report of the Investigating Committee to the [5][State] Government and the [5][State] Government may—

(*i*) direct the Inspector-General to revoke the licence as provided in this sub-section, or

(*ii*) itself revoke the licence and commute the unexpired residue of the term of detention of the offender to a term of imprisonment as provided in section 12].

(*2*) If an offender removes himself from the supervision of the institution, society or person under which he was by licence permitted to live, his licence shall be deemed to have been revoked from the date on which he has so removed himself.

[6][(*3*) On the revocation of a licence under sub-section (*2*) the period beginning from the date on which the offender removed himself from supervision till the date on which he is arrested shall, subject to the provisions of section 17, be excluded in computing the period for which he has been ordered to be detained in a Borstal school.

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[1] This sub-section was inserted by Bom. 39 of 1948 s. 7.
[2] These words were substituted for the original, *ibid*, s. 8.
[3] These words were inserted, *ibid*.
[4] This proviso was added, *ibid*.
[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[6] This sub-section was inserted by Bom. 39 of 1948, s. 7.

Subsequent supervision.

16. (*1*) When the Inspector-General and the Visiting Committee report that the conduct [1][or progress] of any offender detained in a Borstal school has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the [2][Provincial Government] may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector-General, subject to rules made under this Act, may direct.

[3][(*2*) The Provincial Government may, after considering the report of the Investigating Committee forwarded to it under section 17B, direct that the offender who is under supervision in accordance with sub-section (*1*) shall—

(*a*) again be detained in a Borstal school for such period as it may think fit, or

(*b*) if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school, undergo imprisonment of such description and for such period as it may direct:

Provided that the total period of supervision, detention and imprisonment, under this section shall not exceed one year.

(*3*) The provisions of sub-section (*2*) of section 12 shall apply when an offender is directed to undergo imprisonment under sub-section (*2*) of this section.]

Period of detention.

17. No person shall be detained in a Borstal school after he has, in the opinion of the [2][Provincial Government], attained the age of twenty-three years, or, if in any particular case the [2][Provincial Government] so directs, after he has attained the age of twenty-five years.

Discharge from Borstal school.

[4][**17A.** The [2][Provincial Government] may at any time order any person detained in a Borstal school to be discharged from such school, either absolutely or on such conditions as may be imposed.]

Investigating Committee to investigate into complaints against offenders discharged on probation, etc.

[5][**17B.** (*1*) The Provincial Government may, by notification in the *Official Gazette*, appoint an Investigating Committee.

(*2*) The Inspector-General may, by an order in writing, require any offender—

(*a*) who is discharged on licence under section 14 or who is placed under supervision under section 16, and who is reported by the authority, institution, society or person under whose supervision he has been permitted to live or has been directed to remain, to be of bad behaviour, or

(*b*) who has broken any of the conditions of the licence granted to him under section 14,

to appear before the Investigating Committee within such time and at such place as may be specified in the order.

(*3*) The Investigating Committee shall examine the offender and after making such inquiry as it thinks fit into his conduct submit its report to the Inspector General. If the Investigating Committee report that the conduct of such offender has been such that he is unfit for further detention in a Borstal school and in every case where an offender had been directed to remain under supervision under section 16, the Inspector-General shall forward a copy of the report of the Investigating Committee to the Provincial Government.

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[1] These words were inserted by Bom. 39 of 1948, s. 9.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] This sub-section was substituted by Bom. 39 of 1948, s. 9.

[4] Section 17A was inserted by Bom. 3 of 1934, s. 4.

[5] This section was inserted by Bom. 39 of 1948, s. 10.

(*4*) The offender shall, during the period of the proceedings under this section, be detained in a Borstal school or in a special ward, or such other suitable part of, a prison as the Inspector-General may by general or special order direct.

(*5*) If the offender fails to appear before the Investigating Committee in accordance with the order made under sub-section (*2*) or escapes while detained under sub-section (*4*), he may, on the requisition of the Inspector-General or any officer authorized by him in this behalf, be arrested by any officer of police without warrant and without an order of a Magistrate and brought before the Investigating Committee or sent under custody to the place of detention under sub-section (*4*), as the case may be.

(*6*) The period beginning from the date on which the order under sub-section (*2*) is passed by the Inspector-General and ending with the day on which an order is passed by the Inspector-General under section 15 or by the Provincial Government under section 15 or 16, as the case may be, shall be excluded in computing the total term of his detention in a Borstal school or in computing the period of one year referred to in section 16.]

Arrest of offender escaping from Borstal school, or escaping from supervision.

18. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal school [1][or has escaped from a civil hospital to which he was removed for treatment under section 13B] or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain, or has been permitted to live by licence under section 14, [2][or has committed a breach of any of the conditions imposed under section 17A] may be arrested by any officer of Police without warrant and without the order of a Magistrate and sent back to the Borstal school [1][or to the civil hospital] or to such authority, institution, society or person, as the case may be.

Rules.

19. (*1*) The [3][Provincial Government] may make rules for the regulation and management of any Borstal school and for the carrying into effect of the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine—

(*a*) the control and management of Borstal schools established under this Act;

(*b*) the appointment, powers and duties of officials in such schools;

(*c*) the constitution, powers and duties of visiting committees;

(*d*) the classification, control, discipline, training instruction and treatment of offenders ordered to be detained in a Borstal school and for the temporary detention of such offenders until arrangements can be made for sending them to such school;

(*e*) the regulation of visits to, and communication with, offenders detained in such school;

(*f*) the restriction or prohibition of the supply to, or possession by, offenders detained in such school of any specified articles or kinds of articles;

(*g*) the period for which offenders or any class or classes of offenders may, within the limits fixed by this Act, be ordered to be detained in such school;

(*h*) the class or classes (if any) of offenders who shall not be ordered to be detained in such school;

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[1] These words were inserted by Bom. 39 of 1948, s. 11.

[2] These words, figures and letter were inserted, by Bom. 3 of 1934, s. 5.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[1](*hh*) the removal of offenders to Borstal Schools in other [2][States] in [3]*India and the reception and detention in a Borstal school established under this Act of offenders transferred from other [2][States] ;

(*i*) the form and conditions of licences granted under section 14 ;

(*j*) the supervision of offenders after the expiration of the term of their detention ;

(*k*) the transfer of incorrigible offenders from a Borstal school to prison ;

[4][(*l*) the conditions on which an offender may be discharged under section 17A ;]

[5][(*m*) the constitution, procedure, powers and duties of the Investigating Committee.]

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [6][before each [7][House] of the [8][State] Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [9][by a resolution in which both [7][Houses] concur.] If any rule is modified the [10][[8][State] Government] may accept the modification and reissue the rule accordingly or may rescind the rule.

Removal of disqualification.

20. The [10][[8][State] Government] may, on the recommendation of the Inspector-General and the Visiting Committee, or otherwise remove any disqualification incurred by an offender ordered to be detained in a Borstal school on account of such detention.

Appeal or revision.

V of 1898.

21. For the purposes of appeal and revision under the Code of Criminal Procedure, 1898, an order of detention under section 6 of this Act shall be deemed to be a sentence of imprisonment for the same period :

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[1] Clause (*hh*) was inserted by Bom. 2 of 1936, s. 6.
[2] This word was substituted for the word "Provinces" by the Adaptation of Laws Order, 1950.
[3] The word "British" was omitted, *ibid.*
[4] Clause (*l*) was added by Bom. 3 of 1934, s. 6.
[5] Clause (*m*) was inserted by Bom. 39 of 1948, s. 12.
[6] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.
[7] The words "House" and "Houses" were substituted respectively for the words "Chamber" and "Chambers" by the Adaptation of Laws Order, 1950.
[8] This word was substituted for the word "Provincial", *ibid.*
[9] These words were inserted by the Adaptation of Indian Laws Order in Council.
[10] The words "Provincial Government" were substituted for th words "Governor in Council", *ibid.*
[11] The proviso was deleted by Bom. 39 of 1948, s. 13.

THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1930.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 12 of Act IX of 1887.
3. Amendment of the Second Schedule to Act IX of 1887.

BOMBAY ACT No. VI OF 1930.[1]

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1930.]

[*9th May 1930.*]

An Act further to amend the Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay.

IX of 1887. WHEREAS it is expedient further to amend the [2]Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Provincial Small Cause Courts (Bombay Amendment) Act, 1930.

IX of 1887. Amendment of section 12 of Act IX of 1887. **2.** In sub-section (*3*) of section 12 of the [2]Provincial Small Cause Courts Act, 1887, hereinafter called "the said Act" for the word "twenty" the word "fifty" shall be substituted.

Amendment of the Second Schedule to Act IX of 1887. **3.** In the Second Schedule to the said Act the following amendments shall be made, namely:—

(*1*) to clause (4) after the words "such property" the following shall be added, namely:—

"but not including a suit for ejectment where—

(*a*) The property has been let under a lease made by a written instrument, and

(*b*) The Court of Small Causes would be competent to take cognizance of a suit for the rent of the property, and

(*c*) The only substantial issue arising for decision is as to whether the lease has determined by efflux of the time limited thereby or has been determined by a notice in accordance with clause (*h*) of section 111 of the Transfer of Property Act, 1882";

IV of 1882.

(*2*) in clause (18) for the words "relating to a trust" the words "to enforce a trust" shall be substituted;

(*3*) to clause (20) after the words "Code of Civil Procedure" the words "in respect of any immovable property" shall be added;

(*4*) to clause (21) after the word "attachment" the words "of any immovable property" and after the word "transfer" the words "of any such property" shall, respectively, be added; and

(*5*) in clause (31) for the words "and a suit for the profits on immovable property belonging to the Plaintiff which have been wrongfully received by the Defendant" the words "but not including a suit for mesne profits" shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Part V, pp. 35-38; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vol. XXVIII.

[2] Central Acts.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1930.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 69 of Act XVI of 1908.
3. Insertion of new Part XI-A in Act XVI of 1908.

BOMBAY ACT No. XVII OF 1930.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1930.]

[*4th September 1930.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908. 5 & 6 Geo. V, c. 61. WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay, in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Registration (Bombay Amendment) Act, 1930.

Amendment of section 69 of Act XVI of 1908. **2.** After clause (*g*) of sub-section (*1*) of section 69 of the [2]Indian Registration Act, 1908, hereinafter called the said Act, the following clause shall be inserted, namely:—

"(*gg*) regulating the procedure for transmitting documents for being photographed and the serial numbering, binding and preservation of the photographic prints and negatives."

Insertion of new Part XI-A in Act XVI of 1908. **3.** After Part XI of the said Act, the following shall be inserted, namely:—

"PART XI-A.

OF THE COPYING OF DOCUMENTS BY MEANS OF PHOTOGRAPHY.

Application of this part. 70-A. This part shall apply to the areas only in respect of which a notification is issued by the [3]Provincial Government] under section 70-C.

Definition. 70-B. For the purposes of this Part 'Photo-Registrar' means any person appointed by the [3]Provincial Government] to perform the duties of Photo-Registrar under this Part:

[4]* * * * *

Documents may be photographed in areas notified by Provincial Government. 70-C. (*1*) The [3]Provincial Government] may, by notification in the [5][*Official Gazette*], direct that in any district or sub-district specified in the notification copies of documents admitted to registration under this Act shall be made by means of photography.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Pt. V, p. 180; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vol. XXIX.

[2] See Central Acts.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The proviso was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*2*) On the issue of such notification it shall be translated into the vernacular of the district and shall be posted in a conspicuous place at the Registration offices affected by the notification.

Application of Act to areas notified under section 70-C.

70-D. In any district or sub-district in respect of which a notification has been issued under section 70-C the provisions of this Act shall, for the purposes of this Part, be subject to the following modifications, namely :—

(*1*) (*a*) Every document admitted to registration under section 35 or section 41 shall be carefully marked with an identification stamp and the serial number of the document on every page.

(*b*) It shall then be transmitted by the registering officer to the Photo-Registrar, who shall cause, each side of each page of such document together with all stamps, endorsements, seals, signatures, thumb-impressions and certificates appearing thereon to be photographed without subtraction or alteration. He may for this purpose cut or untie, without breaking any seals, the thread or ribbon wherewith the pages of the document are sewn together in order to separate the pages of the document, and, as soon as the document has been photographed, he shall rebind the document exactly as before and if he has cut the thread or ribbon shall seal it over the joint with his seal :

Provided that before transmission of the document to the Photo-Registrar the party presenting the document may require the registering officer to have it copied by hand under section 52 on payment of an additional copying fee.

(*c*) There shall then be prepared and preserved the negative and at least one photographic print and to each such negative and print the Photo-Registrar shall fix his signature and seal in token of the exact correspondence of the copy to the original document, as admitted for registration.

(*d*) One set of such prints arranged in the order of their serial numbers shall be made up into books and sewn or bound together. To each such book the Registrar or Sub-Registrar shall prefix a certificate of the serial numbers it contains, and the books shall then be preserved in the records of the Sub-Registrar. The negatives shall be preserved in such suitable place as the Inspector-General may prescribe.

(*2*) All words and expressions used in the Act with reference to the making of copies of documents by hand or the entering or filing of documents or memorandum in books provided under section 16 shall, so far as may be necessary, be construed as referring to the making of such copies by means of photography or the entering or filing of documents or memoranda in books made up of copies prepared by means of photography.

(*3*) Where this Part applies the sections mentioned below shall be deemed to be modified as follows :—

(*a*) In section 19 the words ' and also by a true copy ' shall be omitted ;

(*b*) sub-section (*4*) of section 21 shall be omitted ;

(*c*) the words ' according to the order of its admission ' occurring in clause (*c*) of sub-section (*1*) of section 52 shall be omitted ;

(*d*) section 53 shall be omitted ;

(*e*) in sub-section (*1*) of section 60 the words ' and page ' shall be omitted;

(*f*) sub-section (*1*) of section 61 shall be omitted ;

(*g*) in sub-section (*1*) of section 62,—

(*i*) for the word ' transcribed ' the word ' copied ' shall be substituted ; and

(*ii*) for the words and figures ' copy referred to in section 19 ' the words ' photograph of the original ' shall be substituted."

THE BOMBAY LOCAL FUND AUDIT ACT, 1930.

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BOMBAY ACT No. XXV OF 1930.[1]

[THE BOMBAY LOCAL FUND AUDIT ACT, 1930.]

[*17th September 1930.*]

Adapted and modified by the Adaptation of Indian Laws Orders in Council.
Amended by Bom. 12 of 1949.
,, ,, ,, 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1955.

An Act to provide for and regulate the audit of the local funds under the management or control of certain local authorities in the Bombay Presidency except [2][Greater Bombay].

WHEREAS it is expedient to provide for and regulate the audit of the local funds under the management or control of certain local authorities in the Bombay Presidency except [2][Greater Bombay] in manner hereinafter appearing ; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act ; It is hereby enacted as follows :—

5 & 6 Geo. V c. 61.

1. This Act may be called the Bombay Local Fund Audit Act, 1930. Short title.

2. This Act extends to the whole of the Bombay Presidency except [2][Greater Bombay]. Extent.

3. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(*a*) "Auditor" means the Examiner or any other person empowered by [3][the [4][State] Government] to perform the functions of an auditor under this Act.

[5][(*aa*) 'Chairman' means the president or chairman of the local authority and includes in the case of a dissolved or superseded local authority, the person or persons lawfully appointed to exercise the powers and perform the duties of such local authority ;

(*ab*) 'Detailed audit' means an audit of accounts for the whole year ;]

(*b*) "Examiner" means the Examiner of Local Fund Accounts and includes the Assistant Examiner of Local Fund Accounts.

Bom. I of 1904.

(*c*) "Local authority" means a local authority as defined in clause (26) of section 3 of the Bombay General Clauses Act, 1904, and includes a school board constituted under the [6]Bombay Primary Education Act, 1923.

Bom. IV of 1923.

(*d*) "Local Fund" means any fund to the control or management of which a local authority is legally entitled and includes the proceeds of any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority.

[7][(*e*) 'special audit' means an audit of accounts pertaining to a specified item or series of items requiring thorough examination.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Pt. V, pp. 45–49 ; for Report of Select Committee, *see ibid.*, 1930, Pt. V, pp. 116-121 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vols. XXVIII and XXIX.

[2] These words were substituted for the original by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] This word substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] These clauses were inserted by Bom. 12 of 1949, s. 2 (*1*).

[6] *See* now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

[7] This clause was added, *ibid.*, s. 2 (*2*).

Liability of local authorities to submit their accounts for audit.

4. The accounts of any local authority whose accounts are declared by [1][the [2][State] Government], by a notification in the [3][*Official Gazette*], to be subject to audit under this Act shall, notwithstanding anything contained in any enactment by which such local authority is constituted or in any rules made thereunder be subject to audit in all respects in the manner provided by or under this Act.

Accounts to be submitted for audit at such period or periods as may be required.

5. [4][The Chairman] of every local authority, whose accounts are declared under section 4 to be subject to audit under this Act, shall present or cause to be presented for audit all accounts of its local fund in the manner and form prescribed by rules under section 15 to the auditor yearly or at such period or periods as may be required by the Commissioner.

Power of auditor to require production of documents and attendance of persons concerned, etc.

6. (*1*) For the purpose of any audit under this Act, an auditor may—

[5][(*a*) require in writing the production at the head office of the local authority of such vouchers, statements, returns, correspondence, notes or other documents in relation to the accounts as he may think fit ;]

(*b*) require in writing any salaried servant of the local authority accountable for, or having the custody or control of [6][such vouchers, statements, returns, correspondence, notes or other documents] or any person having directly or, indirectly, by himself or his partner, any share or interest in any contract with or under the local authority to appear in person before him at the head office of the local authority, and answer any question ;

(*c*) in the event of an explanation being required from the [7]* chairman or other honorary officer or member of a local authority, in writing invite such person to meet him at the head office of the local authority and shall in writing specify the point on which his explanation is required.

(*2*) The auditor may, in any requisition or invitation made under sub-section (*1*), fix a reasonable period, not being less than three days [8][in the case of a District Local Board or of a Municipality constituted under the Bombay Municipal Boroughs Act, 1925], within which the said requisition or invitation shall be complied with. Bom. XVIII of 1925.

(*3*) The auditor shall give to the local authority not less than two weeks' notice in writing of the date on which he proposes to commence the audit.

[9][Provided that, notwithstanding anything contained in this sub-section, the auditor may, for special reasons which shall be recorded in writing, give shorter notice than two weeks or commence a special or detailed audit on the authority of the Commissioner or the Examiner without giving notice.]

Penalty for disobeying requisition under section 6.

7. (*1*) Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clause (*a*) or clause (*b*) of sub-section (*1*) of section 6 shall be liable, on conviction before a Magistrate, to a fine which may extend to one hundred rupees :

Provided that no proceedings under this section shall be instituted except on the written sanction of the Commissioner :

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] These words were substituted for the original by Bom. 12 of 1949, s. 3.

[5] This clause was substituted for the original, *ibid.*, s. 4.

[6] These words were substituted, *ibid.*

[7] The word "president" was deleted, *ibid.*

[8] These words were inserted, *ibid.*

[9] This proviso was added, *ibid.*

Provided further that before giving such sanction the Commissioner shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

(*2*) No court inferior to that of a Magistrate of the first class shall try any offence against this Act.

Audit report to be sent to certain officers and bodies as [2][State] Government may direct.

8. [1][As soon as practicable after the completion of the audit, but not later than three months thereafter,] the Examiner shall prepare a report on the accounts audited and examined and shall send such report to the local authority concerned and copies thereof to such officers and bodies as [2][the [3][State] Government] may direct.

Audit report what to contain.

9. The Examiner shall include in his report a statement of—

(*a*) every payment which appears to him to be contrary to law,

(*b*) the amount of any deficiency or loss which appears to have been caused by the gross negligence or misconduct of any person,

(*c*) the amount of any sum received which ought to have been but is not brought into account by any person, and

(*d*) any material impropriety or irregularity which he may observe in the accounts other than those mentioned in clauses (*a*), (*b*) and (*c*) above.

Local authority to remedy defects: Procedure to be followed after report of the Examiner under section 8.

10. [4][(*1*) On receipt of a report under section 8, the chairman shall remedy any defects or irregularities which may have been pointed out in the report, and shall place the report, together with a statement of the action taken or proposed to be taken thereon and an explanation in regard thereto before a meeting of the local authority. He shall also, within three months of the receipt of the report, send to the Examiner intimation of his having remedied the defects or irregularities, if any, pointed out in the report, or shall, within the said period, supply the Examiner any further explanation in regard to such defects or irregularities as the local authority may wish to give.]

(*2*) On receipt of such intimation or explanation the Examiner may, in respect of all or any of the matters discussed in his report,

(*a*) accept the intimation or explanation given by the [5]* *chairman and withdraw the objection, or

(*b*) direct that the matter be re-investigated at the next audit or at any earlier date, or

(*c*) hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied.

(*3*) The Examiner shall send a report of his decision to the Commissioner within one month of the date of the receipt by him of the intimation or explanation of the [5]* *chairman referred to in sub-section (*1*) or in the event of the [5]* * chairman failing to give such intimation or explanation, on the expiry of the period of

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[1] These words were substituted by Bom. 12 of 1949, s. 4.
[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] This sub-section was substituted for the original by Bom. 12 of 1949, s. 6.
[5] The words "president or" were deleted, *ibid.*

three months mentioned in the said sub-section and [1][shall forward to the chairman a copy of such report specifying therein in particular the portions thereof to be published under sub-section (*4*)]. If the Examiner holds that any defects or irregularities have not been removed or remedied he shall state in the report whether, in his opinion, the defects or irregularities can be regularised and if so, by what method; and if they do not admit of being regularised, whether they can be condoned and, if so, by what authority. He shall also state whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged :

Provided that in the case of reports on the accounts of school boards and of such local authorities as are specially notified by [2][the [3][State] Government] in this behalf the report referred to in this sub-section shall be submitted by the Examiner to such officer, being the head of a department, as [2][the [3][State] Government] may direct. Such officer shall take such action as may be necessary regarding any defects or irregularities falling under clause (*c*) of sub-section (*2*) which may have been brought to notice in the report. If he is of the opinion that the amounts to which any such defects or irregularities relate should be surcharged or charged, he shall forward the report to the Commissioner together with his recommendation in that behalf.

(*4*) The local authority concerned shall publish in its next administration report, such portions of the report under section 8 as deal with defects and irregularities falling under clause (*c*) of sub-section (*2*), together with the explanation thereof, if any, given under sub-section (*1*) and the final report of the Examiner thereon under sub-section (*3*). Such report of defects and irregularities, explanation and final report shall be open to the inspection of the public at the office of the local authority for a period of one month from the date of their receipt and shall also be published in the [4][regional language] of the district in any newspaper circulating in the district selected by the local authority within one month of the receipt by it of the copy of the report sent to the Commissioner under sub-section (*3*).

[5][Provided that—

(*i*) a local authority, whose annual income is less than Rs. 1,00,000 but exceeds Rs. 50,000 may, instead of so publishing the whole of such report of defects and irregularities, explanation and final report in such newspaper, publish in such newspaper a summary thereof in the regional language of the district, and

(*ii*) a local authority whose annual income is Rs. 50,000 or less, may, instead of so publishing such report of defects and irregularities, explanation and final report in the newspaper, publish the same by affixing a copy thereof at its office and at such other conspicuous places within its limits as it may think fit.]

(*5*) If [6][the chairman] fails to give the intimation or explanation referred to in sub-section (*1*) within the period therein mentioned the Commissioner may, at the instance of the Examiner, publish in the [4][regional language] of the district the whole of the Examiner's report under section 8, together with any observations

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[1] These words, brackets and figure were substituted for the words " shall forward a copy of such report to the chairman " by Bom. 9 of 1955, s. 2 (*1*).

[2] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the word " vernacular " by Bom. 12 of 1949, s. 6.

[5] This proviso was added by Bom. 9 of 1955, s. 2 (*2*).

[6] These words were substituted for the original, by Bom. 12 of 1949, s. 6.

which the Commissioner may make thereon, in any newspaper circulating in the district which the Commissioner may select and the cost of such publication shall be [1][forthwith paid by the local authority concerned. If such cost is not so paid, the Commissioner may make an order directing any person, who for the time being has custody of any moneys on behalf of the local authority, as its officer, treasurer, banker or otherwise, to pay the amount of such cost from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order. Every payment made pursuant to such order shall be sufficient discharge to such person from all liability to the local authority in respect of any amount paid by him out of the moneys of the local authority so held by him.]

(*6*) Nothing in this section or in section 9 shall preclude the Examiner at any time from bringing to the notice of the Commissioner, for such action as the Commissioner may consider necessary, any information which appears to the Examiner to support a presumption of criminal misappropriation or fraud [2][or which in his opinion deserves special attention or immediate investigation].

[1] These words were substituted for the original by Bom. 12 of 1949, s. 6.
[2] These words were added, *ibid.*

Commissioner to surcharge or charge illegal payment or loss caused by gross negligence or misconduct.

11. (*1*) The Commissioner may, after considering the recommendation of the Examiner or of any head of a department under the proviso to sub-section (*3*) of section 10, as the case may be, and after taking the explanation of the person concerned, or making such further inquiry, as he may consider necessary, disallow any item which appears to him to be contrary to law and surcharge the same on the person making, or authorizing the making of, the illegal payment; and may charge against any person responsible therefor the amount of any deficiency or loss caused by the gross negligence or misconduct of that person, or, any sum received which ought to have been but is not brought into account by that person and shall, in every such case, certify the amount due from such person :

Provided that no order of surcharge or charge shall be made under this Act in respect of any item included, or, which ought to have been included in, but was omitted from, any accounts for any period prior to the 1st April 1930.

(*2*) The Commissioner shall state in writing the reasons for his decision in respect of every surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.

(*3*) If a person to whom a copy of the Commissioner's decision is sent under sub-section (*2*) refuses to take delivery thereof he shall be deemed to have duly received it on the day on which it was refused by him.

Recovery of surcharges and charges how made.

12. (*1*) Every sum certified by the Commissioner to be due from any person under sub-section (*1*) of section 11 shall be paid by such person into the treasury or bank in which the funds of the local authority concerned are lodged, within one month from the receipt by him of the decision of the Commissioner, unless within that time such person has applied to the Court or to [1][the [2][State] Government] as provided in section 13.

(*2*) The said sum, if not duly paid, or if an application has been made to the Court or to [1][the [2][State] Government] against the decision of the Commissioner as provided in sub-section (*1*) of section 13, such sum as the Court or [1][the [2][State] Government] shall declare to be due, shall be recoverable, on an application made by the Collector to the Court, in the same way as an amount decreed by the Court in favour of the Collector.

Application against order of surcharge or charge.

13. (*1*) Any person aggrieved by any order of surcharge or charge made by the Commissioner under sub-section (*1*) of section 11 may, within one month from the receipt by him of the decision of the Commissioner, either—

(*a*) apply to the District Court to set aside such order; and the Court, after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge or charge and make such orders as to costs as it thinks proper in the circumstances; or

(*b*) in lieu of such application apply to [1][the [2][State] Government] which shall pass such orders thereon as it thinks fit.

(*2*) Pending disposal of the application all proceedings on the certificate shall be stayed if the person aggrieved makes out a *prima facie* case for a stay order.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Expenses in respect of requisitions of auditors to be payable out of local fund.

14. All expenses incurred by a local authority in complying with any requisition of an auditor under sub-section (*1*) of section 6 shall be payable out of its local fund.

Rules.

15. (*1*) [1][The [2][State] Government] may make rules not inconsistent with this Act, for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(*a*) the manner and form in which the accounts of a local authority, whose accounts are subject to audit under this Act, shall be kept and presented;

(*b*) the powers and duties of auditors and the procedure to be followed by them for conducting an audit and the times at which such audit may be conducted; and

(*c*) the manner in which all matters required to be published under this Act shall be published.

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [3][before each [4][House] of the [2][State] Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [5][by a Resolution in which both [4][Houses] of the Legislature concur]. If any rule is modified, [6][the [2][State] Government] may accept the modification and re-issue the rule accordingly, or, may rescind the rule.

16. [*Amendments made by section 16 have been incorporated in the principal Acts.*]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "House" and "Houses" were substituted for the words "Chamber" and "Chambers" respectively by the Adaptation of Laws Order, 1950.

[5] These words were inserted by the Adaptation of Indian Laws order in Council.

[6] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

BOMBAY ACT No. V OF 1931.[1]

[THE CATTLE-TRESPASS (BOMBAY AMENDMENT) ACT, 1931.]

[*23rd May 1931.*]

An Act further to amend the Cattle-trespass Act, 1871, in its application to the Presidency of Bombay.

I of 1871. WHEREAS it is expedient further to amend the [2]Cattle-trespass Act, 1871, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Cattle-trespass (Bombay Amendment) Act, 1931.

Amendment of section 14 of Act I of 1871. I of 1871. **2.** In the proviso to section 14 of the [2]Cattle-trespass Act, 1871, for the words "Magistrate of the District" the words "officer authorised to sell them by public auction" shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1931, Part V, p. 43; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1931, Vol. XXX.

[2] *See* Central Acts.

BOMBAY ACT No. I OF 1932.[1]

[THE TOBACCO DUTY (TOWN OF BOMBAY) AMENDMENT ACT, 1932.]

[*30th March 1932.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857.

IV of 1857. 5 & 6 Geo. V, c. 61.

WHEREAS it is expedient to amend the Tobacco Duty (Town of Bombay) Act 1857, for the purpose hereinafter appearing; And whereas the previous sanction of the Governor required by section 80C of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

Short title

1. This Act may be called the Tobacco Duty (Town of Bombay) Amendment Act, 1932.

Commencement and duration.

2. This Act shall come into force on the 19th day of March 1932 and shall remain in force for 10 years in the first instance, but [2]Government may extend it for a further period not exceeding 10 years by a notification in the [3][*Official Gazette*].

3 and **4.** [*Amendments of sections 2, 8 and 9 of Act 4 of 1857—The amendments have been incorporated in the principal Act.*]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Part V, p. 38; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXIV.

[2] "Government" means so long as the Municipal duty is, by virtue of section 143 (*2*) of the Government of India Act, 1935, levied and collected by the Provincial Government, that Government and thereafter the Central Government.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

THE BOMBAY FINANCE ACT, 1932.

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24B. The Urban Immoveable Property tax to be a first charge on premises on which it is leviable.
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26. Primary responsibility for the Urban Immoveable Property tax.
26A. Apportionment of responsibility for Urban Immoveable Property tax when premises are let and rateable value exceeds the amount of rent.
27. Remission and refund.
28. Default of Municipality.
28A. Application of Part VI to certain areas subject to certain modifications.
29. Rules.

PART VII—[*Repealed.*]

PART VIII.

OTHER TAXES.

41. Amendment of Bom. I of 1923.
42. Amendment of Bom. VI of 1925.

BOMBAY ACT No. II OF 1932.[1]

[THE BOMBAY FINANCE ACT, 1932.]

[*30th March 1932*]

Amended by Bom. 6 of 1932.
,, ,, ,, 1 of 1933.
,, ,, ,, 1 of 1934.
,, ,, ,, 1 of 1935.
,, ,, ,, 3 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 7 of 1938.
,, ,, ,, 4 of 1939.
,, ,, ,, 17 of 1939.
,, ,, ,, 1 of 1940.*
,, ,, ,, 4 of 1941.*
,, ,, ,, 6 of 1942.*
,, ,, ,, 3 of 1943.*
,, ,, ,, 4 of 1944.*
,, ,, ,, 4 of 1945.*
,, ,, ,, 9 of 1946.*
,, ,, ,, 8 of 1947.
Adapted and modified by the India (Adaptation of Existing Indian Laws), Order, 1947.
Amended by Bom. 23 of 1948.
,, ,, ,, 2 of 1949.
,, ,, ,, 53 of 1949.
,, ,, ,, 60 of 1949.
,, ,, ,, 8 of 1950.
,, ,, ,, 9 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 16 of 1951.
Amended by Act 28 of 1951.
Amended by Bom. 37 of 1953.

An Act to provide for the levy of a duty on consumption of electrical energy [2]* * * * [3][to amend the Court-fees Act, 1870, and the Indian Stamp Act, 1899, in their application to the Province of Bombay, to provide for the levy of a tax on immovable property in certain urban areas [4][to provide for the levy of a tax on advertisements in newspapers], and to amend the Bombay Entertainments Duty Act, 1923, and the Bombay Betting Tax Act, 1925].

VII of 1870. II of 1899. Bom. I of 1923. Bom. VI of 1925.

WHEREAS it is expedient to provide for the levy of a duty on consumption of electrical energy, [2]* * * * [5][to amend the [6]Court-fees Act, 1870, and the Indian Stamp Act, 1899, in their application to the Province of Bombay, for the purposes hereinafter appearing, to provide for the levy of a tax on immovable property in certain urban areas, [7][to provide for the levy of a tax on advertisements

VII of 1870. II of 1899.

[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1932, Pt. V, pp. 30-34; for Report of the Select Committee *see ibid.*, 1932, Part V, pp. 40-47; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXIV.

[2] The words " for the purposes of lights and fans " were deleted by Bom. 2 of 1949, s. 2.

[3] This portion was substituted for the original by Bom. 23 of 1948, s. 9.

[4] These words were inserted by Bom. 2 of 1949, s. 2.

[5] This portion was substituted for the original by Bom. 23 of 1948, s. 10.

[6] Central Acts.

[7] These words were inserted by Bom. 2 of 1949, s. 2.

* Sections 3 to 9 of Bom. 1 of 1940, sections 3, 4, 6 and 7 of Bom. 4 of 1941, sections 3 and 5 of Bom. 6 of 1942, section 3 of Bom. 3 of 1943, Bom. 4 of 1944 and Bom. 4 of 1945, and sections 3 to 8 of Bom. 9 of 1946 were re-enacted by Bom. 23 of 1948.

in newspapers] and to amend the Bombay Entertainments Duty Act, 1923, and the Bombay Betting Tax Act, 1925, for the purposes hereinafter appearing]; It is hereby enacted as follows :— Bom. I of 1923. Bom. VI of 1925.

PART I.
Preliminary.

Short title.

1. This Act may be called the Bombay Finance Act, 1932.

Extent and commencement and duration.

2. (*1*) Except where it is otherwise provided in this Act, this Act extends to the whole of the Presidency of Bombay.

(*2*) It shall come into force on the 1st day of April 1932.

[1] * * * *

Savings.

[2]**[2A.** The provisions of this Act shall be in addition to and not in derogation of the provisions of the Bombay Increase of Stamp Duties Act, 1943, and the Bombay Increase of Court-fees Act, 1943.] Bom. XIV of 1943.

PART II.
Electricity Duty. Bom. XV of 1943.

Extent of Part II.

3. This Part extends to the whole of the Presidency of Bombay. [3]* *

Definitions.

4. In this Part, unless there is anything repugnant in the subject or context—

(*a*) "consumer" means any person who is supplied with energy by a licensee [4][but does not include a licensee to whom energy is supplied by the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948]; LIV of 1948.

(*b*) "energy" means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message;

(*c*) "licensee" means any person licensed under Part II of the [5]Indian Electricity Act, 1910, to supply energy and includes any person who has obtained the sanction of the [6][[7][State] Government] under [8][section 28 of that Act, the State Government when it is engaged in a business of supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948]; IX of 1910. LIV of 1948.

(*d*) "prescribed" means prescribed by rules made under this Part.

Duty on units of energy consumed.

5. There shall be levied and paid to the Government of Bombay, on the units of energy consumed [9]* * * excluding losses of energy in transmission and transformation, a duty (hereinafter referred to as "electricity duty") at the rates specified in the First Schedule to this Part:

Provided that electricity duty shall not be leviable on the units of energy consumed [10][by any Government [11]* * * *] or by or in respect of any local authority, railway administration, tramway company, [12]* * * [13][or] institution [14]* specified in the Second Schedule to this Part, except to the extent specified therein.

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[1] Sub-section (*3*) was deleted by Bom. 23 of 1948, s. 11.

[2] Section 2A was inserted by Bom. 4 of 1945, s. 3, read with Bom. 23 of 1948, s. 7.

[3] The words "except Aden" were omitted by the Adaptation of Indian Laws Order in Council.

[4] These words, brackets and figures were inserted by Bom. 16 of 1951, s. 2 (*1*).

[5] Central Acts.

[6] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[8] These words, brackets and figures were substituted for the original by Bom. 16 of 1951, s. 2 (*2*).

[9] The words "for the purpose of lights and fans" were deleted by Bom. 2 of 1949, s. 3.

[10] The words "by any Government or the Crown Representative" were substituted for the words "by Government" by the Adaptation of Indian Laws Order in Council.

[11] The words "or the Crown Representative" were omitted by paragraph 7 of the India (Adaptation of Existing Indian Laws) Order, 1947.

[12] The words "industrial undertaking" were deleted by Bom. 2 of 1949, s. 3.

[13] The word "or" was inserted by Bom. 4 of 1939, s. 3 (*1*) (*i*).

[14] The words "or class of persons" were deleted, *ibid.*, s. 3 (*1*) (*ii*).

Payment of electricity duty.

6. (*1*) Every licensee shall collect and pay to the Government at the time and in the manner prescribed, the proper electricity duty payable under this Part on the units of energy supplied by him to consumers. The duty so payable shall be a first charge on the amount recoverable by the licensee for the energy supplied by him and shall be a debt due by him to the Government :

Provided that where the licensee has been unable to recover his dues for the energy supplied by him, he shall not be liable to pay the duty in respect of the energy so supplied.

(*2*) Where any person fails or neglects to pay, at the time and in the manner prescribed, the amount of electricity duty due from him, the licensee may, without prejudice to the right of Government to recover the amount under section 9, and after giving not less than seven clear days' notice in writing to such person, cut off the supply of energy to such person ; and he may, for that purpose, exercise the power conferred on a licensee by sub-section (*1*) of section 24 of the [1]Indian Electricity Act, 1910, for recovery of any charge or sum due in respect of energy supplied by him.

IX of 1910.

[2][(*3*) The licensee shall be entitled to a rebate of such amount as may from time to time be determined by the State Government, regard being had to the cost of collection of the duty incurred by such licensee.]

[3](*4*) Every person other than a licensee who generates energy for his own use shall pay to the [4][State] Government at the time and in the manner prescribed the proper electricity duty payable under this Part on the units of energy consumed by him.

[5](*5*) Nothing in this section shall apply,—

(*i*) to any person who generates energy for the purpose of supplying it for the use of vehicles or vessels ;

(*ii*) to the consumption of energy generated at a voltage not exceeding 100 volts.]

Licensee to keep books of account and submit returns.

7. Every licensee [6][and every other person who is liable to pay electricity duty under sub-section (*4*) of section 6] shall, unless he is exempt from payment of electricity duty under the proviso to section 5, keep books of account in the prescribed form and submit to the Government or to the prescribed officer returns in such form and at such times as may be prescribed, showing the units of energy supplied by him to each consumer or consumed by him, as the case may be, and the amount of the duty payable thereon and recovered or paid by him under section 6.

Inspecting officers.

8. The Government may, by notification in the [7][*Official Gazette*], appoint inspecting officers to inspect the prescribed books of accounts [8][kept under section 7]. Such officers shall perform such duties and exercise such powers as may be prescribed for the purpose of carrying into effect the provisions of this Part and the rules made thereunder.

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[1] *See* Central Acts.
[2] Sub-section (*3*) was substituted for the original by Bom. 37 of 1953, s. 2.
[3] This sub-section was inserted by Bom. 4 of 1939, s. 3 (*2*).
[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[5] Sub-section (*5*) was substituted for the paragraph beginning with the words " Nothing in " and ending with the words " or vessels " by Bom. 9 of 1950, s. 2.
[6] These words were inserted by Bom. 4 of 1949, s. 3 (*3*).
[7] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.
[8] These words and figure were substituted for the words " of licensees " by Bom. 4 of 1939, s. 3 (*4*).

Recoveries.

9. Any sum due on account of electricity duty, if not paid at the time and in the manner prescribed, shall be recoverable [1][either through a civil court or as an arrear of land revenue—

(*a*) if the sum was payable under sub-section (*1*) of section 6, either from the consumer, or, subject to the proviso to the said sub-section from the licensee at the option of the [2][State] Government, and

(*b*) if the sum was payable under sub-section (*4*) of section 6 from the person who generates energy for his own use.]

Penalties.

10. If any person liable under section 7 to keep books of account or to submit returns fails to keep or submit the same in the manner prescribed or obstructs an inspector in the exercise of his powers and duties under this Part and the rules thereunder or contravenes any rule made under section 11 he shall, on conviction, be punishable with fine which may extend to fifty rupees.

Power to make rules.

11. (*1*) The Government may make, [3]rules not inconsistent with the provisions of this Part, for the purpose of carrying into effect the provisions of this Part.

(*2*) In particular, and without prejudice to the generality of the foregoing power such rules may—

(*a*) prescribe the time and manner of payment of the electricity duty under section 6 ;

(*b*) prescribe the form of the books of account to be kept and the times at which, the form in which and the officers to whom the returns required by section 7 shall be submitted ;

(*c*) prescribe the powers and duties of inspecting officers ; and

(*d*) provide for any other matter for which there is no provision or insufficient provision in this Part and for which provision is, in the opinion of the Government, necessary for giving effect to the provisions of this Part.

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [4][before each [5][House] of the [2][State] Legislature] for one month previous to the next session, thereof and shall be liable to be rescinded or modified [6][by a Resolution in which both [5][Houses] concur]. If any rule is modified, the Government may accept the modification and re-issue the rule accordingly or may rescind the rule.

FIRST SCHEDULE.

(*See* section 5.)

For lights and fans.

[7][(*a*) In respect of all premises not falling under [8][clauses (*b*) and (*c*)] and not exempted under the proviso to section 5 and the Second Schedule.	(1) In the City of Bombay.	(*i*) For each unit of energy consumed for the use of a cinema house or theatre—	¾ anna per unit.
		(*ii*) For each unit of energy consumed for any other purpose—	
		(*a*) where the total consumption per month does not exceed 12 units ..	1 anna per unit.
		(*b*) where the total consumption per month exceeds 12 units ...	1¼ annas per unit.

[1] These words, brackets, letters and figures were substituted for the original by Bom. 4 of 1939 s. 3(5).

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] For Rules made under this sections *see* Government Notification in the R. D. No. 8836/28, dated 14th September 1932, published in the *Bombay Government Gazette*, 1932, Pt. I, pp. 1254-57.

[4] The words " before each Chamber of the Provincial Legislature " were substituted for the words "on the table of the Bombay Legislative Council " by the Adaptation of Indian Laws Order in Council.

[5] The words " by a Resolution in which both Chambers concur " were inserted, *ibid*,.

[6] This clause was substituted for the original by Bom. 4 of 1939, s. 3 (6) (*i*).

[7] The words, brackets and letters " clauses (*b*) and (*c*) " were substituted for the word, brackets and letter " clause (*b*) " by Bom. 9 of 1950, s. 3 (*1*).

(2) In other areas	..	Such rate for each unit of energy consumed, not exceeding the rates prescribed in clause (*1*), as the [1][State] Government may by notification in the Official Gazette specify.]

(*b*) In respect of all premises not exempted under the proviso to section 5 and the Second Schedule [2][and not falling under clause (*c*)], when flat rates are charged by the licensee, for—

	[3][Such rate as may be prescribed by Government not exceeding annas per mensem.]
every lamp of less than 30 watts	[4][5
every lamp of 30 watts or more but less than 40 ...	7½
every lamp of 40 watts or more but less than 60 ...	10
every lamp of 60 watts or more but not exceeding 100	15
and for every additional 15 watts or fraction thereof in excess of 100 in any lamp	2½]

[5][(*c*) In respect of premises used by any industrial undertaking excluding premises used for residential and office purposes. ¼ anna for every two units of energy or fraction thereof.

(*d*) On units consumed for studiolighting. ¼ anna for every two units of energy or fraction thereof.

Explanation.—For the purposes of clause (*c*), premises which are used wholly or principally for carrying on a manufacturing process within the meaning of clause (*k*) of section 2 of the Factories Act, 1948, shall be deemed to be used by an industrial undertaking.]

LXIII of 1948. [6]* * * * * * * * *

[7][*For any other purpose.*

[8][(*a*)] For every two units of energy or fraction thereof consumed for any purpose other than lights and fans [9][not falling under clause (*b*) ... ¼ anna.]

[10][(*b*) For every five units of energy or fraction thereof consumed for electrolytic process or electric furnace by any industrial undertaking, subject however to the conditions that the Inspecting Officer appointed under section 8 is satisfied that the cost of the energy consumed is not less than 30 per cent. of the total cost of manufacture incurred by such ndustrial undertaking and that separate meters or sub-meters are installed for indicating such consumption separately ...¼ anna]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was inserted by Bom. 9 of 1950, s. 3 (*2*).
[3] These words were substituted for the words "Annas per mensem" by Bom. 4 of 1939, s. 3(*6*)(*ii*)(*a*).
[4] These figures were respectively substituted for the figures "2, 3, 4, 6 and 1" *ibid.*, s. 3 (*6*) (*ii*) (*b*).
[5] Clauses (*c*) and (*d*) and Explanation were inserted by Bom. 9 of 1950, s. 3 (*3*).
[6] The Explanation was deleted by Bom. 4 of 1939, s. 3. (*6*) (*ii*) (*c*).
[7] This portion was added by Bom. 2 of 1949, s. 4.
[8] This entry was numbered as clause (*a*) by Bom. 16 of 1951, s. 3 (*1*).
[9] These words, brackets and letter were added by Bom. 16 of 1951, s. 3 (*1*).
[10] This clause was inserted, *ibid.*, s. 3 (*2*).

SECOND SCHEDULE.

(*See* section 5, proviso.)

Exemptions.

(*1*) [1][The [2][Government]], save in respect of premises used for residential purposes ;

(*2*) a railway administration as defined in clause (*6*) of section 3 of the [3]Indian Railways Act, 1890, save in respect of premises used for residential purposes ; IX of 1890.

(*3*) a local authority, save in respect of premises used for residential purposes ;

(*4*) a tramway company, save in respect of premises used for residential and office purposes ;

[4]* * * * * *

(*6*) a hospital or dispensary which is not maintained for private gain ;

[5]* * * * * *

[6]* * * * * *

[7]* * * * * *

PART III

Court-fees.

Amendment of section 7 of Act VII of 1870.

12. In section 7 of the [3]Court-fees Act, 1870, in its application to the Presidency of Bombay, in this Part referred to as the said Act,— VII of 1870.

(*a*) to clause (*d*) of paragraph (*iv*) the words " or other consequential relief " shall be added ;

(*b*) after the word " appeal " in paragraph (*iv*) the words " with a minimum fee of rupees five in the case of suits falling under clause (*c*) " shall be inserted ; and

(*c*) in clauses (1), (2) and (3) of the proviso to paragraph (*v*) for the words " five ", " ten " and " ten " the words " seven and half ", " fifteen " and " fifteen " shall, respectively, be substituted.

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[1] The words " The Crown " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[3] *See* Central Acts.

[4] Entry (*5*) was deleted by Bom. 2 of 1949, s. 5.

[5] The Exemption (*7*) was deleted by Bom. 4 of 1939, s. 3 (*7*) (*i*).

[6] The Explanation was deleted by Bom. 2 of 1949, s. 5.

[7] Explanation (*2*) was deleted by Bom. 4 of 1939, s. 3 (*7*) (*iii*).

13. For articles 1, 8, 11, 12 and 12-A of, and the Table of rates of *ad valorem* fees in Schedule I to the said Act the following shall be substituted, namely :— Amendment of Schedule I to Act VII of 1870.

SCHEDULE I.

Ad Valorem Fees.

Number.	——	Proper fee.
1. Plaint, written statement, pleading a set off or counter-claim or memorandum of appeal (not otherwise provided for in this Act) or of cross-objection presented to any Civil or Revenue Court except those mentioned in section 3.	When the amount of value of the subject-matter in dispute does not exceed five rupees.	Six annas.
	When such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees.	Six annas.
	When such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees.	Twelve annas.
	When such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees.	Five rupees.
	When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees.	Fifteen rupees.

Number.		Proper fee.
	When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees.	Twenty-two rupees and eight annas.
	When such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees.	Thirty rupees.
	When such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees.	Thirty rupees.
	When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees.	Thirty rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be ten thousand rupees.	
8. Copy of any document liable to stamp-duty under the [1]Indian Stamp Act, 1899, when left by any party to a suit or proceeding in place of the original withdrawn.	(*a*) When the stamp-duty chargeable on the original does not exceed one rupee.	The amount of the duty chargeable on the original.
	(*b*) In any other case	One rupee.
11. Probate of a will or letters of administration with or without will annexed.	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees, on the part of the amount or value in excess of one thousand rupees, up to ten thousand rupees.	Two per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds ten thousand rupees, on the part of the amount or value in excess of ten thousand rupees, up to fifty thousand rupees.	Three per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds fifty thousand rupees, on the part of the amount or value in excess of fifty thousand rupees, up to one lakh of rupees.	Four per centum

II of 1899.

[1] See Central Acts.

Number.	——	Proper fee.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one lakh of rupees, on the part of the amount or value in excess of one lakh of rupees, up to two lakhs of rupees.	Four and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two lakhs of rupees, on the part of the amount or value in excess of two lakhs of rupees, up to two lakhs and fifty thousand rupees.	Five per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two lakhs and fifty thousand rupees, on the part of the amount or value in excess of two lakhs and fifty thousand rupees, up to three lakhs of rupees.	Five and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds three lakhs of rupees, on the part of the amount or value in excess of three lakhs of rupees, up to four lakhs of rupees.	Six per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds four lakhs of rupees, on the part of the amount or value in excess of four lakhs of rupees, up to five lakhs of rupees.	Six and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds five lakhs of rupees, on the part of the amount or value in excess of five lakhs of rupees :	Seven per centum.
	Provided that when, after the grant of a certificate under Part X of the [1]Indian Succession Act, 1925, or under Bombay Regulation VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.	XXXIX of 1925.

[1] See Central Acts.

Number.	—	Proper fee.
12. Certificate under Part X of the [1] Indian Succession Act, 1925. XXXIX of 1925.	....	The fee leviable in the case of a probate (article 11) on the amount or value of any debt or security specified in the certificate under section 374 of the Act, and one and a half times this fee on the amount or value of any debt or security to which the certificate is extended under section 376 of the Act. *Note.*—(1) The amount of a debt is its amount, including interest on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act; and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.
12-A. Certificate under Bombay Regulation VIII of 1827.	...	The fee leviable in the case of a probate (article 11) on the amount or value of the property in respect of which the certificate is granted.

[1] See Central Acts.

Table of rates of ad valorem *fees leviable on the institution of suits.*

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.
Rs.	Rs.	Rs. a.	Rs.	Rs.	Rs. a.
....	5	0 6	420	430	32 4
5	10	0 12	430	440	33 0
10	15	1 2	440	450	33 12
15	20	1 8	450	460	34 8
20	25	1 14	460	470	35 4
25	30	2 4	470	480	36 0
30	35	2 10	480	490	36 12
35	40	3 0	490	500	37 8
40	45	3 6	500	510	38 4
45	50	3 12	510	520	39 0
50	55	4 2	520	530	39 12
55	60	4 8	530	540	40 8
60	65	4 14	540	550	41 4
65	70	5 4	550	560	42 0
70	75	5 10	560	570	42 12
75	80	6 0	570	580	43 8
80	85	6 6	680	590	44 4
85	90	6 12	590	600	45 0
90	95	7 2	600	610	45 12
95	100	7 8	610	620	46 8
100	110	8 4	620	630	47 4
110	120	9 0	630	640	48 0
120	130	9 12	640	650	48 12
130	140	10 8	650	660	49 8
140	150	11 4	660	670	50 4
150	160	12 0	670	680	51 0
160	170	12 12	680	690	51 12
170	180	13 8	690	700	52 8
180	190	14 4	700	710	53 4
190	200	15 0	710	720	54 0
200	210	15 12	720	730	54 12
210	220	16 8	730	740	55 8
220	230	17 4	740	750	56 4
230	240	18 0	750	760	57 0
240	250	18 12	760	770	57 12
250	260	19 8	770	780	58 8
260	270	20 4	780	790	59 4
270	280	21 0	790	800	60 0
280	290	21 12	800	810	60 12
290	300	22 8	810	820	61 8
300	310	23 4	820	830	62 4
310	320	24 0	830	840	63 0
320	330	24 12	840	850	63 12
330	340	25 8	850	860	64 8
340	350	26 4	860	870	65 4
350	360	27 0	870	880	66 0
360	370	27 12	880	890	66 12
370	380	28 8	890	900	67 8
380	390	29 4	900	910	68 4
390	400	30 0	910	920	69 0
400	410	30 12	920	930	69 12
410	420	31 8	930	940	70 8

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.		When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	a.	Rs.	Rs.	Rs.	a.
940	950	71	4	6,500	6,750	380	0
950	960	72	0	6,750	7,000	395	0
960	970	72	12	7,000	7,250	410	0
970	980	73	8	7,250	7,500	425	0
980	990	74	4	7,500	7,750	440	0
990	1,000	75	0	7,750	8,000	455	0
1,000	1,100	80	0	8,000	8,250	470	0
1,100	1,200	85	0	8,250	8,500	485	0
1,200	1,300	90	0	8,500	8,750	500	0
1,300	1,400	95	0	8,750	9,000	515	0
1,400	1,500	100	0	9,000	9,250	530	0
1,500	1,600	105	0	9,250	9,500	545	0
1,600	1,700	110	0	9,500	9,750	560	0
1,700	1,800	115	0	9,750	10,000	575	0
1,800	1,900	120	0	10,000	10,500	597	8
1,900	2,000	135	0	10,500	11,000	620	0
2,000	2,100	139	0	11,000	11,500	642	8
2,100	2,200	135	0	11,500	12,000	665	0
2,200	2,300	140	0	12,000	12,500	687	8
2,300	2,400	145	0	12,500	13,000	710	0
2,400	2,500	150	0	13,000	13,500	732	8
2,500	2,600	155	0	13,500	14,000	755	0
2,600	2,700	160	0	14,000	14,500	777	8
2,700	2,800	165	0	14,500	15,000	800	0
2,800	2,900	170	0	15,000	15,500	822	8
2,900	3,000	175	0	15,500	16,000	845	0
3,000	3,100	180	0	16,000	16,500	867	8
3,100	3,200	185	0	16,500	17,000	890	0
3,200	3,300	190	0	17,000	17,500	912	8
3,300	3,400	195	0	17,500	18,000	935	0
3,400	3,500	200	0	18,000	18,500	957	8
3,500	3,600	205	0	18,500	19,000	980	0
3,600	3,700	210	0	19,000	19,500	1,002	8
3,700	3,800	215	0	19,500	20,000	1,025	0
3,800	3,900	220	0	20,000	21,000	1,055	0
3,900	4,000	225	0	21,000	22,000	1,085	0
4,000	4,100	230	0	22,000	23,000	1,115	0
4,100	4,200	235	0	23,000	24,000	1,145	0
4,200	4,300	240	0	24,000	25,000	1,175	0
4,300	4,400	245	0	25,000	26,000	1,205	0
4,400	4,500	250	0	26,000	27,000	1,235	0
4,500	4,600	255	0	27,000	28,000	1,265	0
4,600	4,700	260	0	28,000	29,000	1,295	0
4,700	4,800	265	0	29,000	30,000	1,325	0
4,800	4,900	270	0	30,000	32,000	1,355	0
4,900	5,000	275	0	32,000	34,000	1,385	0
5,000	5,250	290	0	34,000	36,000	1,415	0
5,250	5,500	305	0	36,000	38,000	1,445	0
5,500	5,750	320	0	38,000	40,000	1,475	0
5,750	6,000	335	0	40,000	42,000	1,505	0
6,000	6,250	350	0	42,000	44,000	1,535	0
6,250	6,500	365	0	44,000	46,000	1,565	0
				46,000	48,000	1,595	0
				48,000	50,000	1,625	0

and the fee increases at the rate of thirty rupees for every five thousand rupees, or part thereof, up to a maximum of ten thousand rupees, for example—

Rs.		Rs. a.		Rs.		Rs. a.
1,00,000	..	1,925 0	..	9,00,000	...	6,725 0
2,00,000	..	2,525 0	..	10,00,000	..	7,325 0
3,00,000	..	3,125 0	..	11,00,000	..	7,925 0
4,00,000	..	3,725 0	..	12,00,000	..	8,525 0
5,00,000	..	4,325 0	..	13,00,000	..	9,125 0
6,00,000	..	4,925 0	..	14,00,000	..	9,725 0
7,00,000	..	5,525 0	..	15,00,000	..	10,000 0
8,00,000	..	6,125 0				

Amendment of Schedule II to Act VII of 1870.

14. For Articles 1, 6, 7, 12, 14, 17, 18, 19, 20 and 21 of Schedule II to the said Act the following shall be substituted, namely :—

"SCHEDULE II.

Fixed fees.

Number.		Proper fee.
1. Application or petition ..	(*a*) When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings :	Two annas.
	or when presented to any officer of land-revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement :	
	or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement :	
	or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Court of Small Causes constituted under the [1]Provincial Small Causes Courts Act, 1887, or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees, not being an application for assistance under section 86 of the Bombay Land Revenue Code, 1879	IX of 1887. Bom. V of 1879.
	or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or office.	

[1] See Central Acts.

	Number.	—	Proper fee.
Bom. V of 1879.		(*aa*) When presented to a Collector or other officer of revenue for assistance under section 86 of the Bombay Land Revenue Code, 1879.	Four annas.
V of 1898.		(*b*) When containing a complaint or charge of any offence other than an offence for which police officers may, under the Criminal Procedure Code, 1898, arrest without warrant, and presented to any Criminal Court:	Eight annas.
		or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any Revenue-officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity and not otherwise provided for by this Act:	
		or to deposit in Court revenue or rent:	
		or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.	
		(*c*) When presented to a Chief Commissioner and other Chief Controlling Revenue or Executive Authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a division and not otherwise provided for by this Act.	Two rupees.
		(*d*) When presented to a High Court ..	Four rupees.
V of 1898. V of 1908.	6. Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, and not otherwise provided for by this Act.	....	One rupee.
V of 1869.	7. Undertaking under section 49 of the [1]Indian Divorce Act, 1869.	....	One rupee.
	12. Caveat	When the amount or value of the property involved does not exceed two thousand rupees.	Five rupees.
		When the amount or value of the property involved exceeds two thousand rupees.	Ten rupees.
XXI of 1866.	14. Petition in a suit under the [1]Native Converts' Marriage Dissolution Act, 1866.	....	Ten rupees.

[1] See Central Acts.

Number.		Proper fee.	
17. Plaint or memorandum of appeal in each of the following suits—			
(*i*) to alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court;	When the amount or value of the property involved does not exceed five hundred rupees.	Ten rupees.	
(*ii*) to alter or cancel any entry in a register of the names of proprietors of revenue paying estates;	When the amount or vaue of the property involved exceeds five hundred rupees.	Fifteen rupees.	
[1]*			
(*iii*) to obtain a declaratory decree or order, where no consequential relief is prayed	....	Fifteen rupees.	
(*iv*) to set aside alienation :	....	Fifteen rupees.	
(*v*) to set aside a decree or award;	When the amount or value of the property involved does not exceed five hundred rupees.	Ten rupees.	
	When the amount or value of the property involved exceeds five hundred rupees.	Fifteen rupees.	
(*vi*) to set aside an adoption; and	....	Fifteen rupees.	
(*vii*) any other suit where it is not possible to estimate at a money value the subject-matter in dispute, and which is not otherwise provided for by this Act.	....	Fifteen rupees.	
18. Application—			
(*a*) under paragraph 17 of the Second Schedule to the Code of Civil Procedure, 1908;	....	Ten rupees.	V of 1908.
(*b*) for probate or letters of administration or for revocation there of under the [2]Indian Succession Act, 1925;	When the amount or value of the Estate does not exceed two thousand rupees.	Two rupees.	XXXIX of 1925.
	When it exceeds two thousand rupees, but does not exceed five thousand rupees.	Five rupees.	
(*c*) for a certificate under Part X of the [2]Indian Succession Act, 1925, or Bombay Regulation, VIII of 1827;	When it exceeds five thousand rupees	.. Ten rupees.	XXXIX of 1925.

[1]The word " and " was deleted by Bom. 53 of 1949 s. 2, First Schedule,
[2] See Central Acts.

	Number.		Proper fee.
	(*d*) for opinion or advice or for discharge from a Trust, or for appointment of new Trustees, under section 34, 72, 73, or 74 of the [1][Indian Trusts Act, 1882;	....	Ten rupees.
II of 1882.			
	(*e*) for the winding up of a Company, under section 166 of the [1]Indian Companies Act, 1913;	....	Ten rupees.
VII of 1913.			
	(*f*) under rule 58 of Order XXI of the Code of Civil Procedure, 1908, regarding a claim to attached property.	When the amount or value of the property exceeds five hundred rupees.	Ten rupees.
V of 1908.			
	19. Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1908.	....	Twenty rupees.
V of 1908.			
	20. Every petition under the Indian Divorce Act, 1869, except petitions under section 44 of that Act and every memorandum of appeal under section 55 of that Act.	....	Thirty rupees.
IV of 1869.			
	21. Plaint or memorandum of appeal under [2][the Parsi Marriage and Divorce Act, 1936, or the Bombay Hindu Divorce Act, 1947].	....	Thirty rupees.
III of 1936. Bom. XXII of 1947.			

PART IV.

Stamp Duties.

II of 1899. **15.** In the Indian Stamp Act, 1899, in its application to the Presidency of Bombay, the following amendments shall be made, namely :— Amendment of Act II of 1899.

[3][(*A1*) In section 2,—

(*a*) after the words "in the subject or context—" the following clause shall be inserted, namely :— Amendment of section 2 of Act II of 1899.

"(A1) 'association' means any association, exchange, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to, any goods or marketable securities";

(*b*) after clause (7), the following clause shall be inserted, namely :—

"(8) 'clearance list' means a list of transactions relating to contracts required to be submitted to the clearing house of an association in accordance with the rules or by laws of the association :

[1] *See* Central Acts.

[2] These words and figures were substituted for the words and figures "Parsi Marriage and Divorce Act, 1865" by Bom. 2 of 1949, s. 6.

[3] Sub-section (*A1*) was inserted by Bom. 2 of 1949, s. 7.

Provided that no instrument shall for the purposes of this Act, be deemed to be a clearance list, unless it contains the following declaration signed by the person dealing in such transactions or on his behalf by a properly constituted attorney, namely :—

[1][I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions, and that it includes all the transactions required to be submitted to the clearing house in accordance with the rules/by-laws of the association. I/We further declare that no transaction for which an exemption is claimed under Article 5 or Article 43 in Schedule I to the Indian Stamp Act, 1899, in its application to the State of Bombay, as the case may be, is omitted. II of 1899.

Explanation.—Transaction for the purpose of this clause shall include both sale and purchase.]

(*c*) after clause (12A), the following clause shall be inserted, namely :—

"(12B) 'Government securities' means a Government security as defined in the Indian Securities Act, 1920 ;] X of 1920.

Amendment of sections 4 and 6 of Act II of 1899.

(*1*) In sub-section (*1*) of section 4, and in the proviso to section 6, for the words "one rupee" the words "two rupees" shall be substituted.

Amendment of sections 11, 32, 35, 40, 41, 69 and 74 of Act II of 1899.

(*2*) In clause (*a*) of section 11, proviso (*c*) to section 32, proviso (*a*) to section 35, sub-section (*1*) of section 40, section 41, clause (*b*) of section 69 and the proviso to section 74 before the words "one anna" the words "two annas" shall be inserted.

Amendment of section 17 of Act II of 1899.

[2][(*2A*) To section 17, the following proviso, shall be added, namely :—

"Provided that a clearance list described in [3][Article 20A, 20B, 20C, 20D or 20E] of Schedule I may be stamped at any time but not later than two months after it is submitted [4][to the clearing house of] [5][an Association in accordance with its rules and bye-laws]].

New section 19A of Act II of 1899. Payment of duty on certain instruments liable to increased duty in Bombay Presidency.

(*3*) After section 19, the following section shall be inserted, namely :—

"19A. Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Presidency of Bombay is executed out of the said Presidency and subsequently received in the said Presidency—

(*a*) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in the Presidency of Bombay less the amount of duty, if any, already paid on such instrument in [6][a Part A State or a Part C State,]

(*b*) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (*a*) of this section in the same manner and

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[1] This portion was substituted for the original by Bom. 37 of 1953, s. 3 (*1*).

[2] This sub-section was inserted by Bom. 4 of 1939, s. 4 (*1*). This amendment shall be deemed to have been made on and to have had effect from the 31st March 1938, *ibid.*, s. 4 (*2*).

[3] These words, letters and figures were substituted for the word, figures and letter "Article 20A" by Bom. 9 of 1950, s. 4 (*1*) (*a*).

[4] These words and figures were substituted for the words and figures "by a member of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925, to the clearing house of such stock exchange" by Bom. 6 of 1942, s. 3 (*1*), read with Bom. 23 of 1948, s. 4.

[5] These words were substituted for the words and figures "a stock exchange recognized under the Bombay Securities Contracts Control Act, 1925" by Bom. 9 of 1950, s.4 (*1*) (*b*).

[6] This portion was substituted for the words "British India" by the Adaptation of Laws Order, 1950.

at the same time and by the same persons as though such instrument were an instrument received in [1][a Part A State or a Part C State] for the first time at the time when it became chargeable with the higher duty, and

(*c*) the provisions contained in clause (*b*) of the proviso to sub-section (*3*) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of [2][the territories comprised within Part A States and Part C States] and first received in [3][the said territories] when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (*a*) of the said proviso shall not apply thereto."

Amendment of section 28 of Act II of 1899.

(*4*) For the proviso to sub-section (*4*) of section 28 the following shall be substituted, namely :—

"Provided that notwithstanding anything contained in Article 23 of Schedule I the duty on such last mentioned conveyance shall in no case be less than two rupees."

Insertion of new section 62A in Act II of 1899.

[4][(*4A*) After section 62, the following section shall be inserted, namely :—

Penalty for making false declaration on clearance list.

"62A. Any person who in a clearance list makes a declaration which is false or which he either knows or believes to be false, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both."]

[5][(*4B*) After section 73, the following new section shall be inserted, namely :—

Collector's power to authorize officer to enter premises and inspect certain documents.

"73A. The Collector may, where he has reason to believe that all or any of the instruments specified in Articles 5, 20A, 20B, 20C, 20D, 20E and 43 of Schedule I have not been charged at all or incorrectly charged with duty leviable under this Act, authorise in writing any officer to enter upon any premises where he has reason to believe that any registers, books, records, papers, documents or proceedings relating to or in connection with any such instrument are kept and to inspect them and to take such notes and extracts as such officer deems necessary. Every person having in his custody or maintaining such registers, books, records, papers, documents, or proceedings shall at all reasonable times permit the officer authorised by the Collector to inspect them and take the notes and extracts as he may deem necessary."]

Amendments of Schedule I of Act II of 1899.

(*5*) In Schedule I—

(*a*) in column 1 of article 12, clauses (*a*) and (*b*) shall be repealed ;

(*b*) for the entries in column 2 of the said Schedule relating to Articles 2 (*b*), 3, 4, 8 (*b*), 9, 12, [6]* 15, 18, 20, 22, 23, 24, 25 (*b*), 26 (*b*), 29, 30 (*b*), 39, 40 (*c*), 41, 42, 44, 46, 48, 50, 51, 54 (*a*), 55 (*b*), 57 (*b*), [7][62 (*a*), (*b*) and (*c*)] and 65 and shown in column 2 of the Schedule to this Part the entries shown in column 3 of the latter Schedule shall be substituted ;

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[1] This portion was substituted for the words " British India " by the Adaptation of Laws Order, 1950.
[2] This portion was substituted for the words " British India ", *ibid.*
[3] These words were substituted for the words " British India ", *ibid.*
[4] This sub-section was inserted by Bom. 2 of 1949, s. 7 (*2*).
[5] This sub-section was inserted by Bom. 16 of 1951, s. 4.
[6] The figures " 14 " were deleted by Bom. 7 of 1938, s. 4 (*1*).
[7] The word, figures, letters and brackets " 62 (*a*), (*b*) and (*c*) " were substituted for the figures, letter and brackets " 62 (*c*) (*ii*) " by Bom. 1 of 1935.

(*c*) for articles 5 and 43, the following shall, respectively, be substituted, namely :—

"5. Agreement or Memorandum of an Agreement—

(*a*) If relating to the sale of a Bill of exchange ;	Four annas.
(*aa*) [1][if relating to the purchase or sale] of a Government security .	Subject to a maximum of twenty rupees, two annas for every Rs. 10,000 or part thereof of the value of the security [2][at the time of its purchase or sale, as the case may be].
[3][(*b*) if relating to the purchase or sale of shares, scrips, stocks, bonds, debentures, debenture stocks or any other marketable security of a like nature in or of any incorporated company or other body corporate—	
(*i*) when such agreement or memorandum of an agreement is with or through a member or between members of a Stock Exchange recognised under Bombay Securities Contracts Control Act, 1925 ;	One and half annas for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be. Bom. VIII of 1925.
(*ii*) in other cases ; ..	Three annas for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.]
[4][(*bb*) if relating to the purchase or sale of cotton.	Four annas for every unit of transaction or part thereof.]
[5][(*bc*) if relating to the purchase or sale of bullion or specie ;	(*a*) Two annas for every unit of 2,800 tolas of silver or part thereof ; (*b*) Eight annas for every unit of 250 tolas of gold or part thereof ; (*c*) Five annas for every unit of 250 sovereigns or part thereof.]
[6][(*bd*) if relating to the purchase or sale of oil-seeds ;	Such rate not exceeding eight annas for every unit of 100 khandies or 25 tons, or part thereof, as may be specified by the [7][State] Government by notification in the *Official Gazette*] ;
[8][(*be*) If relating to the purchase or sale of [9][yarn of any kind, non-mineral oils] or spices of any kind.	Such rate not exceeding two annas for every Rs. 2,500 or part thereof of the value of [9][yarn of any kind, non-mineral oils] or spices of any kind, as may be specified by the State Government by notification in the *Official Gazette*] ;
(*c*) if not otherwise provided for ..	One rupee.

[1] These words were substituted for the words "if relating to the sale" by Bom. 7 of 1938, s. 4 (*2*) (*a*).
[2] These words were added, *ibid.*
[3] This entry was substituted by Bom. 37 of 1953, s. 3 (*2*) (*a*) (*A*).
[4] This entry was inserted by Bom. 23 of 1948, s. 12.
[5] This entry was inserted by Bom. 2 of 1949, s. 7.
[6] This entry was inserted by Bom. 60 of 1949, s. 2 (*A*) (*1*) (*a*).
[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
[8] This entry was inserted by Bom. 9 of 1950, s. 4 (*2*) (*A*).
[9] These words were substituted for the words "artificial silk yarn, edible oils" by Bom. 37 of 1953, s. 3 (*2*) (*a*) (*A*).

Exemptions.

Agreement or Memorandum of an Agreement,—

(*a*) for or [1][relating to the purchase or sale] of goods or merchandise exclusively, not being [2][an Agreement or Memorandum of Agreement chargeable under entry (*bb*) [3][entry (*bc*) [4][entry (*bd*) or entry (*be*) of this Article or] a Note or Memorandum chargeable under No. 43 ;

(*b*) made in the form of tenders to the [5][Central Government] for or relating to any loans ;

(*c*) made under the [6][European Vagrancy Act, 1874, section 17 ;

[7][(*d*) made in respect of the purchase or sale of a Government security or of a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of any incorporate company or other body corporate, [8][or of cotton; or of bullion or specie, [9][or of oil seeds [10][or of [11][yarn of any kind, non-mineral oils] or spices of any kind] an entry relating to which is required to be made in a clearance list described in Article 20A, 20B, [12][20C, [13][20D or 20E], as the case may be].

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[1] These words were substituted for the words " relating to the sale " by Bom. 7 of 1938, s. 4 (*2*) (*c*).

[2] These words, brackets and letters were inserted by Bom. 23 of 1948, s. 12.

[3] These words, brackets and letters were substituted for the words, brackets and letters " or entry (*bc*) " by Bom. 60 of 1949, s. 2 (*A*) (*1*) (*b*).

[4] These words, brackets and letters were substituted for the words, brackets and letters " or entry (*bd*) " by Bom. 9 of 1950, s. 4 (*2*) (*A*).

[5] The words " Central Government " were substituted for the words " Government of India " by the Adaptation of Indian Laws Order in Council.

[6] Central Act.

[7] This entry was added by Bom. 7 of 1938, s. 4 (*2*) (*d*).

[8] These words were substituted for the original by Bom. 2 of 1949, s. 7.

[9] These words were inserted by Bom. 60 of 1949, s. 2 (*A*) (*1*) (*b*).

[10] These words were inserted by Bom. 9 of 1950, s. 4 (*2*) (*c*).

[11] These words were substituted for the words " artificial silk yarn or edible oils " by Bom. 37 of 1953, s. 3 (*2*) (*a*) (*A*).

[12] The word, figures and letters " 20C or 20D " were substituted for the word, figures and letter " or 20C " by Bom. 60 of 1949, s. 2 (*A*) (*1*) (*b*).

[13] The word, figures and letters " 20D or 20E " were substituted for the word, figures and letter " or 20D " by Bom. 9 of 1950, s. 4 (*2*) (*c*).

[1][*Explanation.*—For the purposes of this Article unit of transactior means 50 bales of cotton, a bale of cotton being equal to the quantity of cotton weighing approximately 392 lbs.]

" 43. Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal,—

[2][(*aa*) of cotton	Four annas for every unit of transaction or part thereof.
[3][(*ab*) of bullion or specie;	(*a*) Two annas for every unit of 2,800 tolas of silver or part thereof; (*b*) Eight annas for every unit of 250 tolas of gold or part thereof; (*c*) Five annas for every unit of 250 sovereigns or part thereof.]
[4][(*ac*) of oil-seeds;	Such rate not exceeding eight annas for every unit of 100 Khandies or 25 tons.or part thereof, as may be specified by the [5][State] Government by notification in the *Official Gazette*];
[6][(*ad*) of [7][yarn of any kind, non-mineral oils] or spices of any kind.	Such rate not exceeding two annas for every Rs. 2,500 or part thereof of the value of [7][yarn of any kind, non-miniral oils] or spices of any Kind, as may be specified by the State Government by notification in the *Official Gazette*.
(*a*) of [8][any other goods] exceeding in value twenty rupees;	Four annas.
[9][(*b*) of any share, scrip, stock, bond debenture, debenture stock or other marketable security of a like nature exceeding in value twenty rupees, not being a Government security.	[10][One and half annas] for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.]
(*bb*) of a Government security	Subject to a maximum of twenty rupees two annas for every 10,000 rupees or part thereof of the value of the security [11][at the time of its purchase or sale, as the case may be.]

[12][*Exemptions.*

[12][(*1*) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of cotton on account of such principal, an entry relating to which is required to be made in a clearance list described in Article 20B].

[13][(*1A*) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of bullion or specie on account of such principal an entry relating to which is required to be made in a clearance list described in Article 20C];

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[1] This Explanation was added by Bom. 23 of 1948, s. 12.
[2] This entry was inserted by Bom. 23 of 1948, s. 12
[3] This clause was inserted by Bom. 2 of 1949, s. 7.
[4] This entry was inserted by Bom. 60 of 1949, s. 2 (A) (*2*) (*a*).
[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[6] This entry was inserted by Bom. 9 of 1950 s. 4(*2*) (A).
[7] These words were substituted for the words " artificial silk yarn or edible oils " by Bom. 37 of 1953, s. 3(*2*) (*a*) (*b*).
[8] These words were substituted for " any goods " by Bom. 23 of 1948.
[9] This entry was substituted by Bom. 7 of 1938, s. 4 (*3*) (*i*).
[10] 0These words were substituted for the words " Two annas " by Bom. 9 of 1950, s. 4 (*2*) (A).
[11] These words were added by Bom. 7 of 1938, s. 4(*3*) (*ii*).
[12] The word " Exemptions " and clause (1) thereof were substituted for " Exemption " by Bom. 23 of 1948, s. 12 (*1*) (*6*) (*iii*).
[13] This entry was inserted by Bom. 2 of 1949, s. 7.

[1][(*1B*) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of oil-seeds on account of such principal an entry relating to which is required to be made in a clearance list described in Article 20D] ;

[2][(*1C*) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of [3][yarn of any kind, nor-mineral oils] or spices of any kind on account of such principal, an entry relating to which is required to be made in a clearance list described in Article 20E.]

[4][(*2*)] [5][Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of a Government security or a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of an incorporate company or other body corporate, [6][an entry relating to which is required to be made in a clearance list [7][described in Article 20A].]

[8][*Explanation.*—For the purpose of this Article, unit of transaction means 50 bales of cotton, a bale of cotton being equal to the quantity of cotton weighing approximately 392 lbs. ;]

and

(*d*) for Articles 7 and 10 the following shall, respectively, be substituted, namely :—

"7. Appointment in execution of a power, where made by any writing not being a will—

(*a*) of trustees	Fifteen rupees.
(*b*) of property, moveable or immoveable ..	Thirty rupees.

10. Articles of Association of a Company—

(*a*) where the company has no share capital or the nominal share capital does not exceed Rs. 2,500.	Twenty-five rupees.
(*b*) where the nominal share capital exceeds Rs. 2,500 but does not exceed Rs. 1,00,000.	Fifty rupees.
(*c*) where the nominal share capital exceeds Rs. 1,00,000.	One-hundred rupees.

Exemption.

Articles of any Association not formed for profit and registered under section 26 of the [9][Indian Companies Act, 1913.]	VII of 1913.

See also Memorandum of Association of a Company (No. 39).

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[1] This entry was inserted by Bom. 60 of 1949, s. 2 (A) (2) (*b*).

[2] This entry was inserted by Bom. 9 of 1950, s. 4 (2) (A).

[3] These words were substituted for the words " artificial silk yarn or edible oils " by Bom. 37 of 1953, s. 3 (2) (*a*) (B).

[4] This was inserted by Bom. 23 of 1948, s. 12 (*1*) (*b*) (*iii*).

[5] This clause was added by Bom. 7 of 1938, s. 4(3) (*iii*).

[6] These words and figures were substituted for the words and figures " an entry relating to which is made in a clearance list which is duly stamped under Article 20(A) ", by Bom. 4 of 1939, s. 5 (2).

[7] These words were substituted for " in accordance with the rules of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925 " by Bom. 8 of 1947, s. 3.

[8] This Explanation was added by Bom. 23 of 1948, s. 12.

[9] *See* Central Acts

[1][(*dd*) after Article 20, [2]the following Articles] shall be inserted, namely :—

[3][20-A. (*1*) Clearance list relating to the transactions for the purchase or sale of Government securities submitted to the clearing house of a stock exchange.	The sum of duties payable under Article 5 (*aa*) or 43, as the case may be, in respect of each of the entries in such list on the value of the securities calculated at the makineg up price or the contract price, as the case may be.
(*2*) Clearance list relating to the transactions for the purchase or sale of a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of an incorporated company or other body corporate submitted to the clearing house of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925. Bom. VIII of 1925.	The sum of duties payable under Article 5(*b*)(*i*) or 43, as the case may be, in respect of each of the entries in such list on the value of the securities calculated at the making up price or the contract price, as the case may be.
(*3*) Clearance list relating to the transactions for the purchase or sale of a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of an incorporated company or body corporate submitted to the clearing house of a stock exchange not recognised under the Bombay Securities Contracts Control Act, 1925. Bom. VIII of 1925.	The sum of duties payable under Article 5(*b*)(*ii*) or 43, as the case may be, in respect of each of the entries in such list on the value of the securities calculated at the making up price or the contract price, as the case may be.]
[4][20B. Clearance list relating to the transaction for the purchase or sale of cotton submitted to the clearing house of a Cotton Association.	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units of transactions or parts thereof.
[5][* * * * * * * *	
[6][20C. Clearance list relating to the transaction for the purchase or sale of bullion or specie submitted to the clearing house of a Bullion Association ;	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units of transactions or parts thereof.]
[7][20D. Clearance list relating to the transaction for the purchase or sale of oil-seeds submitted to the clearing house of an oil-seeds Association.	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units of transactions or parts thereof.]
[8][20E. Clearance list relating to the transactions for the purchase or sale of [9][yarn of any kind, non-mineral oils] or spices of any kind.	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units or transactions or parts thereof.]

(*e*) in clause (*a*) in column (1) of Article 25 for the words "one rupee" the words "two rupees" shall be substituted, and

[10][(*ee*) in the entry in column 2 of Article 33 for the words "as set forth in such instrument" the following shall be substituted, namely :—

"which is the subject-matter of the gift :

Provided that where an instrument of gift contains any provision for the revocation of the gift the value of the property which is the subject-matter of the gift shall, for the purposes of duty, be determined as if no such provision were contained in the instrument." ;]

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[1] This Article was substituted for the original by Bom. 8 of 1947, s. 3 (*2*).
[2] These words were substituted by Bom. 2 of 1949, s. 7.
[3] Article 20A was substituted for the original by Bom. 37 of 1953, s. 3 (*2*) (*b*).
[4] This Article was inserted by Bom. 23 of 1948, s. 12.
[5] The Explanation below article 20B was deleted, by Bom. 2 of 1949, s. 7.
[6] This article was inserted by Bom. 2 of 1949, s. 7 (*2*)(*b*)(*iii*).
[7] This Article was inserted by Bom. 60 of 1949, s. 2 (B).
[8] This Article was inserted by Bom. 9 of 1950, s. 4 (*2*) (B).
[9] These words were substituted for the words "artificial silk yarn or edible oils by Bom. 37 of 1953, s. 3 (*2*) (*b*).
[10] This clause was inserted by Bom. 4 of 1941, s. 3 (1), read with Bom. 23 of 1948, s. 3.

(*f*) in provisos (*a*) and (*c*) in column 2 of Article 45, for the words "eight annas" the words "one rupee" shall be substituted.

[1][(*g*) in the entry in column 2 of Article 58,—

(*i*) the words "as set forth in such settlement" shall be deleted ; and

(*ii*) after the words "eight-annas" the following shall be inserted, namely :—

"Provided further that where an instrument of settlement contains any provision for the revocation of the settlement, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such provision were contained in the instrument."]

SCHEDULE.

[*See* section 15 (*5*).]

	2	3
2. Administration Bond—		
(*b*) in any other case ..	Five rupees ..	Ten rupees.
3. Adoption Deed ..	Ten rupees ..	Twenty rupees.
4. Affidavit ..	One rupee ..	Two rupees.
8. Appraisement, etc.—		
(*b*) in any other case ..	Five rupees ..	Ten rupees.
9. Apprenticeship-Deed ..	Five rupees ..	Ten rupees.
12. Award ..	The same duty as a Bond (No. 15) for such amount. Five rupees.	The same duty as a Bond (No. 15) for the amount or value of the property to which the award relates as set forth in such award subject to a maximum of twenty rupees.
[2] * * * * * * * *		
15. Bond—		
where it exceeds Rs. 200 and does not exceed Rs. 300.	One rupee eight annas ..	Two rupees four annas.
where it exceeds Rs. 300 and does not exceed Rs. 400.	Two rupees ..	Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500.	Two rupees eight annas ..	Three rupees twelve annas.

[1] This clause was inserted by Bom. 4 of 1941, s. 3(*2*)

[2] Entries relating to Article 14 were deleted by Bom. 7 of 1938, s. 5 (*i*).

where it exceeds Rs. 500 and does not exceed Rs. 600.	Three rupees ..	Four rupees eight annas.
where it exceeds Rs. 600 and does not exceed Rs. 700.	Three rupees eight annas ..	Five rupees four annas.
where it exceeds Rs. 700 and does not exceed Rs. 800.	Four rupees ..	Six rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900.	Four rupees eight annas ..	Six rupees twelve annas.
where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Five rupees ..	Seven rupees eight annas.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Two rupees eight annas ..	Three rupees twelve annas
18. Certificate of Sale—		
(*a*) where the purchase-money does not exceed Rs. 10.	Two annas ..	Four annas.
(*b*) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25.	Four annas ..	Eight annas.
(*c*) in any other case ..	The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.	The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
20. Charter-Party ..	One rupee ..	Two rupees.
22. Composition-Deed ..	Ten rupees ..	Twenty rupees.
23. Conveyance—		
where the amount or value of the consideration for such conveyance as set forth therein.		
exceeds Rs. 200 but does not exceed Rs. 300.	Three rupees. ..	Four rupees eight annas.
where it exceeds Rs. 300 but does not exceed Rs. 400.	Four rupees ..	Six rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500.	Five rupees ..	Seven rupees eight annas.
where it exceeds Rs. 500 but does not exceed Rs. 600.	Six rupees. ..	Nine rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700.	Seven rupees ..	Ten rupees eight annas.
where it exceeds Rs. 700 but does not exceed Rs. 800.	Eight rupees ..	Twelve rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900.	Nine rupees ..	Thirteen rupees eight annas.
where it exceeds Rs. 900 but does not exceed Rs. 1,000.	Ten rupees. ..	Fifteen rupees.
and for every Rs. 500 or part thereof in excess Rs. 1,000.	Five rupees ..	Seven rupees eight annas.
24. Copy or Extract—		
(*i*) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee.	Eight annas ..	One rupee.
(*ii*) in any other case ..	One rupee ..	Two rupees.
25. Counterpart or Duplicate—		
(*b*) in any other case ..	One rupee ..	Two rupees.
26. Customs Bond—		
(*b*) in any other case ..	Five rupees ..	Ten rupees.
29. Divorce ..	One rupee ..	Five rupees.
30. Entry as an Advocate, Vakil or Attorney on the roll of any High Court—		
(*b*) in the case of an Attorney ..	Two hundred and fifty rupees.	Five hundred rupees.

39. Memorandum of Association of a Company—			
(*a*) if accompanied by articles of association under section 17 of the [1]Indian Companies Act, 1913.	Fifteen rupees	..	Thirty rupees.
(*b*) if not so accompanied ..	Forty rupees	..	Eighty rupees.
40. Mortgage-Deed—			
(*c*) when a collateral or auxiliary or additional or substituted security or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—			
for every sum secured not exceeding Rs. 1,000;	Eight annas	..	One rupee.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Eight annas	..	One rupee.
41. Mortgage of a crop—			
(*a*) when the loan is repayable not more than three months from the date of the instrument for every sum secured not exceeding Rs. 200.	One anna	..	Two annas.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	One anna	..	Two annas.
(*b*) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument—			
for every sum secured not exceeding Rs. 100.	Two annas	..	Four annas.
and for every Rs. 100 or part thereof secured in excess of Rs. 100;	Two annas	..	Four annas.
42. Notarial Act ..	One rupee	..	Two rupees.
44. Note of protest by the Master of a Ship.	Eight annas	..	One rupee.
60. Partnership—			
(A) Instrument of—			
(*a*) where the capital of the partnership does not exceed Rs. 500.	Two rupees eight annas	..	Five rupees.
(*b*) in other cases ..	Ten rupees	..	Twenty rupees.
(B) Dissolution of ..	Five rupees	..	Ten rupees.
48. Power of Attorney—			
(*a*) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents.	Eight annas	..	One rupee.
(*b*) when required in suits or proceedings under the [1]Presidency Small Cause Courts Act, 1882.	Eight annas	..	One rupee.
(*c*) when authorising one person or more to act in a single transaction other than the case mentioned in clause (*a*).	One rupee	..	Two rupees.
(*d*) when authorising not more than five persons to act jointly and severally in more than one transaction or generally.	Five rupees	..	Ten rupees.
(*e*) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally.	Ten rupees	..	Twenty rupees.
(*f*) when given for consideration and authorising the attorney to sell any immovable property.	The same duty as a Conveyance (No. 23) for the amount of the consideration.		The same duty as a Conveyance (No. 23) for the amount of the consideration.

VII of 1913.

XV of 1882.

[1] *See* Central Acts.

	(*g*) in any other case	One rupee for each person authorised.	Two rupees for each person authorised. *N.B.*—The term "registration" includes every operation incidental to registration under the [1]Indian Registration Act, 1908.
XVI of 1908.			
	50. Protest of Bill or note	One rupee	Two rupees.
	51. Protest by the Master of a Ship ..	One rupee	Two rupees.
	54. Reconveyance of Mortgaged Property—		
	(*a*) if the consideration for which the property was mortgaged does not exceed Rs. 1,000.	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.	The same duty as a Bond (No. 15) for the amount of such consideration as set forth in the Reconveyance.
	55. Release—		
	(*b*) in any other case	Five rupees	Ten rupees.
	57. Security Bond or Mortgage-Deed—		
	(*b*) in any other case	Five rupees	Ten rupees.
	[2]62. Transfer (whether with or without consideration)—		
	(*a*) of shares in an incorporated company or other body corporate;	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.	12 annas for every Rs. 100 or part thereof of the value of the share.
	(*b*) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8.	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.	12 annas for every Rs. 100 or part thereof of the face amount of the debenture.
	(c) of any interest secured by a bond, mortgage-deed or policy of insurance—		
	(*i*) if the duty on such bond, mortgage-deed or policy does not exceed [3][ten] rupees.	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
	(*ii*) in any other case	Five rupees	Ten rupees.
	65. Warrant for Goods	Four annas	Eight annas.

PART V.

Stamp duties on certain instruments in certain [4]*(cities and urban areas).*

16. This Part extends to [5][Greater Bombay and the cities of] Ahmedabad, Poona and [6][such other cities and urban areas, as the [7][State] Government may, by notification in the *Official Gazette*, specify in this behalf.] Extent of Part V.

17. In this Part, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "City of Ahmedabad" means [8][the limits of the [9][Municipal Corporation] of Ahmedabad, the Cantonment of Ahmedabad and the [10][village] of Sabarmati.]

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[1] *See* Central Acts.
[2] The entries relating to Article 62 were substituted for the original by Bom. 1 of 1935, s. 3 (*2*).
[3] The word "ten" was substituted for the word "five" by Bom. 7 of 1938, s. 5 (*ii*).
[4] These words were substituted for the word "cities" by Bom. 4 of 1939, s. 6 (*1*).
[5] These words were substituted for the words "the cities of Bombay" by Bom. 37 of 1953, s. 4.
[6] These words were substituted for the words "Karachi only" by Bom. 4 of 1939, s. 6 (*2*).
[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[8] These words were substituted for the original by Bom. 4 of 1939, s. 6 (*3*) (*i*).
[9] These words were substituted for the words "municipal borough" by Bom. 37 of 1953, s. 5 (*1*).
[10] This word was substituted and shall be deemed always to have been substituted with effect from the 1st day of April 1941 for the words "notified area" by Bom. 3 of 1943, s. 3, read with Bom. 23 o 1948, s. 5.

(*b*) "City of Poona" means [1][the limits of the Municipal Corporation of Poona] and the cantonment of Poona, and

[2][(*c*) "City" (when used in connection with any city other than those mentioned in clauses (*a*) and (*b*) above) means any urban area which the [3][State] Government may, by notification in the *Official Gazette*, declare as being included in the said city; and

(*d*) "Urban area" means any area within the limits of a municipality, cantonment or notified area committee.]

Amendments of Schedule I to Act II of 1899.

[4]**18.** Notwithstanding anything contained in Part IV, in Schedule I to the [5]Indian Stamp Act, 1899, in its application- II of 1899.

[6][(*a*) to the [7][Greater Bombay],

(*b*) to the Cities of Ahmedabad, Poona and any other city to which this Part has been extended under section 16, and

(*c*) to any urban area (other than those to which clause (*a*) or (*b*) applies) to which this part has been extended under section 16],

in respect of any instrument relating to immovable property situate within the said cities [8][and urban areas] and of the nature described in the articles hereinafter specified; for the entries against the said articles in columns 1 and 2 the following entries shall respectively be substituted, namely:—

18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer—	
(c) in any other case	The same duty as is leviable on a Conveyance (No. 23) [9][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of the purchase-money only.

[1] These words were substituted for the words "the municipal district of Poona, the suburban municipal district of Poona" by Bom. 37 of 1953, s. 5 (2).

[2] Clauses (*c*) and (*d*) were substituted for clause (*c*) by Bom. 4 of 1939, s. 6 (3) (*ii*).

[3] This word was substituted for the word "provincial" by the Adaptation of Land Order, 1950.

[4] This section was substituted by Bom. 6 of 1932, s. 2.

[5] *See* Central Acts.

[6] These words, brackets, letters and figures were substituted for the words "to the Cities of Bombay, Ahmedabad, Poona and Karachi" by Bom. 4 of 1939, s. 6 (*4*) (*i*).

[7] These words were substituted for the words "City of Bombay" by Bom. 37 of 1953, s. 6 (*1*).

[8] These words were inserted by Bom. 4 of 1939, s. 6 (*4*) (*ii*).

[9] These words and figures were substituted for the words, brackets and figures "under the Bombay Finance (Amendment) Act, 1932" by Bom. 1 of 1940, s. 3(*i*), read with Bom. 23 of 1948, s. 2.

	[1][Greater Bombay].		The Cities of Ahmedabad and Poona and any other city.		Urban areas other than those mentioned in columns 1 and 2.	
	1		2		3	
		Rs. a. p.		Rs. a. p.		Rs. a. p.
[2][23. Conveyance [as defined by section 2 (*10*)] so far as it relates to immovable property.	Where the amount or value of the consideration for such conveyance as set forth therein exceeds Rs. 200 but does not exceed Rs. 300.	10 0 0	Where the amount or value of the consideration for such conveyance as set forth therein exceeds Rs. 200 but does not exceed Rs. 300.	7 8 0	Where the amount or value of the consideration for such conveyance as set forth therein exceeds Rs. 200 but does not exceed Rs. 300.	4 8 0
	Where it exceeds Rs. 300 but does not exceed Rs. 400.	14 0 0	Exceeds Rs. 300 but does not exceed Rs. 400.	10 8 0	Exceeds Rs. 300 but does not exceed Rs. 400.	6 0 0
	Where it exceeds Rs. 400 but does not exceed Rs. 500.	18 0 0	Exceeds Rs. 400 but does not exceed Rs. 500.	13 8 0	Exceeds Rs. 400 but does not exceed Rs. 500.	7 8 0
	Where it exceeds Rs. 500 but does not exceed Rs. 600.	22 0 0	Exceeds Rs. 500 but does not exceed Rs. 600.	16 8 0	Exceeds Rs. 500 but does not exceed Rs. 600.	9 0 0
	Where it exceeds Rs. 600 but does not exceed Rs. 700.	26 0 0	Exceeds Rs. 600 but does not exceed Rs. 700.	19 8 0	Exceeds Rs. 600 but does not exceed Rs. 700.	10 8 0
	Where it exceeds Rs. 700 but does not exceed Rs. 800.	30 0 0	Exceeds Rs. 700 but does not exceed Rs. 800.	22 8 0	Exceeds Rs. 700 but does not exceed Rs. 800.	12 0 0
	Where it exceeds Rs. 800 but does not exceed Rs. 900.	34 0 0	Exceeds Rs. 800 but does not exceed Rs. 900.	25 8 0	Exceeds Rs. 800 but does not exceed Rs. 900.	13 8 0
	Where it exceeds Rs. 900 but does not exceed Rs. 1,000.	38 0 0	Exceeds Rs. 900 but does not exceed Rs. 1,000.	28 8 0	Exceeds Rs. 900 but does not exceed Rs. 1,000.	15 0 0
	and for every Rs. 500 or part thereof in excess of Rs. 1,000.	20 0 0	and for every Rs. 500 or part thereof in excess of Rs. 1,000.]	15 0 0	and for every Rs. 500 or part thereof in excess of Rs. 1,000.	10 0 0

[1] These words were substituted for the words "The City of Bombay" by Bom. 37 of 1953, s. 6 (2).
[2] These entries were substituted for the original by Bom. 4 of 1939, s. 6 (4) (iii).

[1][27. Debenture— (*b*) by delivery	The same duty, as was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to the face amount of the debenture.]
31. EXCHANGE OF PROPERTY—instrument of.	The same duty, as is leviable on a conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the value of the property of greatest value as set forth in such instrument.
32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(*a*) when the original mortgage is one of the description referred to in clause (*a*) of Article No. 40 (that is, with possession);	The same duty, as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of the further charge secured by such instrument.
(*b*) when such mortgage is one of the description referred to in clause (*b*) of Article No. 40 (that is, without possession)—	The same duty, as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the total amount of the charge (including the original mortgage and any further charges already made) less the duty already paid on such original mortgage and further charge.
(*i*) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	
33. GIFT—Instrument of, not being a Settlement (No. 58), or Will or Transfer (No. 62).	The same duty as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the value of the property [3][which is the subject-matter of the gift: Provided that where an instrument of gift contains any provision for the revocation of the gift, the value of the property, which is the subject-matter of the gift shall, for the purposes of duty, be determined as if no such provision were contained in the instrument].
[4][35. Lease—	
[5][(*a*) (*iii*) where the lease purports to be for a term in excess of three years.	The same duty as was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to the amount or value of the average annual rent reserved.
(*a*) (*iv*) where the lease does not purport to be for any definite term.	The same duty as was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(*a*) (*v*) where the lease purports to be in perpetuity.	The same duty as was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.]

[1] This entry was inserted by Bom. 1 of 1940, s. 3 (*ii*), read with Bom. 23 of 1948, s. 2.

[2] These words and figures were substituted for the words, brackets and figures "under the Bombay Finance (Amendment) Act, 1932," *ibid* s. 3 (*i*).

[3] These words and proviso were inserted for the words "as set forth in such instrument" by Bom. 4 of 1941, s. 4 (*1*), read with Bom. 23 of 1948, s. 3.

[4] This entry was inserted by Bom. 4 of 1939, s. 6 (*4*) (*iv*).

[5] These clauses were inserted by Bom. 1 of 1940, s. 3 (*iii*) (*a*), read with Bom. 23 of 1948, s. 2.

*(*b*) (*i*) Where the lease is granted for money advanced and where no rent is reserved.	The same duty as is leviable on a conveyance [1][(No. 23) under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of such advance as set forth in the lease.
*(*b*) (*ii*) Where the lease is granted for a fine or premium and where no rent is reserved.	The same duty as is leviable on a conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of such fine or premium as set forth in the lease.
*(*c*) (*i*) Where the lease is granted for money advanced in addition to rent reserved.	Same duty as is leviable on a conveyance [1][(No. 23) under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no advance had been paid or delivered : Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
*(*c*) (*ii*) Where the lease is granted for a fine or premium in addition to rent reserved.	The same duty as is leviable on a conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of such fine or premium as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium had been paid or delivered : Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.]
40. MORTGAGE-DEED, not being an agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57)—	
(*a*) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given.	The same duty as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time time] for a consideration equal to the amount secured by such deed.
[3][48. Power of Attorney. (*f*) when given for consideration and authorising the attorney to sell any immovable property.	The same duty a was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for the amount of the consideration].

[1] These words and figures were substituted for the original by Bom. 1 of 1940 s. 3 (*iii*) (*b*) read with Bom. 23 of 1948, s. 2.

[2] These words and figures were substituted for the original by Bom. 1 of 1940, s. 3 (*i*) read with Bom. 23 of 1948, s. 2.

[3] This entry was inserted, *ibid*, s. 3 (*c*).

* *Vide* footnote No. 4 on prepage.

58. SETTLEMENT—	
A.—Instrument of (including a deed of dower).	(*i*) where the settlement is made for a religious or charitable purpose—The same duty as a bond (No. 15) for a sum equal to the amount or value of the property settled [1]* * * * *
	(*ii*) in any other case—The same duty as is leviable on a conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount or value of the property settled [1]* * *
	Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee:
	[3][Provided further that where an instrument of settlement contains any provision for the revocation of the settlement, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such provision were contained in the instrument].
Exemptions.	
(*a*) Deed of dower executed on the occasion of a marriage between Muhammadans.	
(*b*) Hludassa, that is to say, any settlement of immovable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified and on which a duty of Rs. 10 has been paid.	
B.—Revocation of—	The same duty as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount or value of the property concerned as set forth in the instrument of revocation but not exceeding ten rupees.
[4][59. Share warrants to bearer issued under the Indian Companies Act, 1882.	One and a half times the duty payable on a Conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to the nominal amount of the shares specified in the warrant.]
63. TRANSFER OF LEASE by way of assignment and not by way of under-lease.	The same duty as is leviable on a Conveyance (No. 23) [1][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of the consideration for the transfer.
Exemption.	
Transfer of any lease exempt from duty.	

Repeal of Bom. II of 1926.

19. The Indian Stamp (Bombay Amendment) Act, 1926, is hereby repealed. Bom. II of 1926.

The words "as set forth in such settlement" were deleted by Bom. 4 of 1941, s. 4 (*2*) (*i*) read with Bom. 23 of 1948, s. 3.

[1] These words and figures were substituted for the words, brackets and figures "under the Bombay Finance (Amendment) Act, 1932," by Bom. 1 of 1940, s. 3 (*i*) read with Bom. 23 of 1948, s. 2.

[2] This proviso was inserted by Bom. 4 of 1941, s. 4 (*2*) (*ii*), read with Bom. 23 of 1948, s. 3.

[3] This entry was inserted, by Bom. 1 of 1940, s. 3 (*v*) read with Bom. 23 of 1948, s. 2.

[1][PART VI.

Urban Immovable Property Tax.

Extent of Part VI.

20. This Part extends to—

[2][(*i*) Greater Bombay;

(*ii*) the Cities of Ahmedabad and Poona;

(*iii*) the limits of the municipal borough of Thana;]

(*iv*) the notified areas of Malad, Kandivali, Borivali [3]* and Mulund in the Bombay Suburban District, Bhayandar in the District of Thana and Sabarmati in the District of Ahmedabad, [4]* * * * and]

(*v*) the limits of the [5][Cantonments of Ahmedabad, Poona and Kirkee].

Definitions.

21. Unless there is anything repugnant in the subject or context—

(*1*) "Annual letting value" means—

Bom. III of 1888. Bom. LIX of 1949. Bom. XVIII of 1925. Bom. III of 1901. II of 1924.

[6][(*a*) in Greater Bombay and in the City of Ahmedabad and the City of Poona, the rateable value of buildings or lands as determined in accordance with the provisions of the Bombay Municipal Corporation Act, or the Bombay Provincial Municipal Corporations Act, 1949, as the case may be;]

(*b*) in the other Municipal areas, the annual letting value of buildings or lands as determined in accordance with the provisions of section 78 of the Bombay Municipal Boroughs Act, 1925, or section 63 of the Bombay District Municipal Act, 1901, as the case may be;

(*c*) in the [7][areas of the Cantonments of Ahmedabad, Poona and Kirkee,] the annual value as defined by section 64 of the Cantonments Act, 1924:

Provided that if in any case the property tax is assessed on any building or land on its capital value, such percentage of the capital value as may be determined by the [8][State] Government shall be deemed to be the annual letting value.

Bom. III of 1888. Bom. LIX of 1949.

(*2*) "Buildings" and "lands" have the same meanings as they have in the [9][Bombay Municipal Corporation Act], [10][the Bombay Provincial Municipal Corporations Act, 1949,] the Bombay Municipal Boroughs Act, 1925, the Bombay District Municipal Act, 1901, or the Cantonments Act, 1924, as the case may be;

Bom. XVIII of 1925.

[11][(*2A*) "City of Ahmedabad" and "City of Poona" respectively means the City of Ahmedabad and the City of Poona as constituted under the Bombay Provincial Municipal Corporations Act, 1949;]

Bom. III of 1901. II of 1924. Bom. LIX of 1949.

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[1] Part VI was added by Bom. 4 of 1939, s. 7.
[2] Clauses (*i*) to (*iii*) were substituted for the original by Bom. 37 of 1953, s. 7 (*1*).
[3] The word "Chembur" was deleted by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.
[4] The words "and the limits formerly included in notified area of Chembur," were deleted by Bom. 37 of 1953, s. 7 (*2*).
[5] These words were substituted for the words "Cantonment of Ahmedabad" by Bom. 23 of 1948, s. 3(*ii*).
[6] Sub-clause (*a*) was substituted for the original by Bom. 37 of 1953, s. 8 (*1*).
[7] These words were substituted for the words "area of the Cantonment of Ahmedabad" by Bom. 9 of 1946, s. 4, read with Bom. 23 of 1948, s. 8.
[8] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[9] These words were substituted for the words and figures "City of Bombay Municipal Act, 1888" by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.
[10] These words and figures were inserted by Bom. 37 of 1953, s. 8 (*2*).
[11] Clause (*2A*) was inserted, *ibid*, s. 8 (*3*).

(*3*) "Urban Immovable Property tax" means a tax leviable under the provisions of section 22;

(*4*) "Municipality" includes a Notified Area Committee;

(*5*) "Municipal area" means an area within the limits of a municipality;

(*6*) "Prescribed" means prescribed by rules;

(*7*) "Property tax" means in [1][Greater Bombay and in the City of Ahmedabad and the City of Poona, the general tax levied under section 143 of the Bombay Municipal Corporation Act or under section 132 of the Bombay Provincial Municipal Corporations Act, 1949, as the case may, be] and in other Municipal areas and in the [2][areas of the Cantonments of Ahmedabad, Poona and Kirkee] a tax or rate on buildings or lands or a tax or rate in the form of such tax or rate on buildings or lands levied under the Bombay Municipal Boroughs Act, 1925, or the Bombay District Municipal Act, 1901, or the Cantonments Act, 1924, as the case may be; and Bom. III of 1888. Bom. LIX of 1949. Bom. XVIII of 1925. Bom. III of 1901. II of 1924.

(*8*) "Rules" means rules made under section 29.

Levy of Urban Immovable Property Tax.

22. There shall, subject to the provisions of section 23, be levied and paid to the [3][State] Government a tax on buildings and lands, hereinafter called the "Urban Immovable Property tax" at [4][such rate not exceeding seven per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the [3][State] Government in the *Official Gazette*]:

Provided that

[5][(*i*) such tax shall be levied and paid to the State Government at such rate not exceeding three and half per cent. of the annual letting value of the buildings or lands not exceeding such amount and in such area or areas as may be specified by the State Government by notification in the *Official Gazette*];

[6][(*2*)] that if any building consists of more than one tenement and such tenements are separately assessed to the property tax, the urban immovable property tax shall be assessed on the annual letting value of the building as a whole;

[7][[6][(*3*)] where more than one building or land in the same locality is [8][owned by the same person], the urban immovable property tax shall be assessed on the annual letting value of all such buildings or lands];

[9][(*4*) if any building owned by a Co-operative Housing Society or the members thereof consists of more than one tenement, the urban immovable property tax shall be assessed on the annual letting value of the tenement or tenements owned by, or occupied by each member separately as if it were a building whether such tenement or tenements are separately assessed to the property tax or not.]

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[1] This portion was substituted for the portion beginning with the words "the City of Bombay" and ending with the words "Municipal Corporation Act" by Bom. 37 of 1953, s. 8 (*4*).

[2] These words were substituted for the words "area of the Cantonment of Ahmedabad" by Bom. 9 of 1946 s. 4 read with Bom. 23 of 1948, s. 8.

[3] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the figure and words "7 per cent. of the annual letting value of such buildings or lands" by Bom. 2 of 1949, s. 8.

[5] Clause (*1*) was substituted for the original by Bom. 37 of 1953, s. 9.

[6] The brackets and figures "(*2*)" and "(*3*)" were substituted for the words "Provided further that" and "Provided also that" respectively by Bom. 9 of 1950, s. 5.

[7] This proviso was added by Bom. 8 of 1947, s. 4.

[8] These words were substituted for the words "used for the purpose of one and the same business" by Bom. 23 of 1948, s. 13

[9] This portion was added by Bom. 9 of 1950. s. 5.

Exemption of certain buildings and lands from the levy of Urban Immovable Property tax.

23. The Urban Immovable Property Tax shall not be leviable in respect of the following :—

(*a*) buildings and lands or portions thereof exclusively occupied for public worship or for charitable purposes ;

(*b*) buildings and lands vesting in [1]* * * * the Central Government ;

(*c*) buildings and lands vesting in [1]* * * the [2][State] Government or belonging to a Municipality or a local board or a Cantonment Board and used solely for public purposes and not used or intended to be used for purposes of profit ;[3]

(*d*) (*i*) buildings and lands vesting in the trustees of the Port of Bombay and not used or intended to be used for purposes of profit ; and

Bom. VI of 1879.

(*ii*) wharves, docks, piers, Railways and lighthouses (as defined in the Bombay Port Trust Act, 1879) vesting in the Trustees of the Port of Bombay, and used as such and such other properties vesting in the said Trustees as the [2][State] Government may notify in this behalf ; [4][and

[4](*e*) open lands within the limits of the Bombay Suburban and Thana Districts.

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[1] The words " His Majesty for purpose of " were deleted by the Adaptation of Laws Order, 1950.

[2] The word " State " was substituted for the ward " Provincial " by the Adaptation of Laws Order, 1950.

[3] The word " and " was deleted by Bom. 6 of 1942, s. 5, read with Bom. 23 of 1948, s. 4.

[4] The word " and " and clause (*e*) were inserted, *ibid.*

Explanation.—For the purposes of this section—

(*1*) the following buildings and lands or portions thereof shall not be deemed to be exlusively occupied for public worship or for charitable purposes, namely :—

(*a*) those in which trade or business is carried on; and

(*b*) those in respect of which rent is derived, whether rent is or is not applied exclusively to religious or charitable purposes;

(*2*) where any portion of any building or land is exempt from the Urban Immovable Property tax by reason of its being exclusively occupied for public worship or for charitable purposes, such portion shall be deemed to be a separate property;

[1][(*3*) " open land " shall mean land which is not built upon or enclosed.]

Authorities competent to levy and collect Urban Immovable Property tax and the manner of such levy a collection.

24. (*1*) The Urban Immovable Property tax shall be [2]* * collected—

(*a*) in the areas within the limits of a municipality to which this Part extends under section 20, by the municipality concerned, [3][notwithstanding any law under which such municipality is constituted,]

(*b*) in the area of the Cantonment of Ahmedabad, by the Collector of Ahmedabad [4][and in the areas of the Cantonments of Poona and Kirkee, by the Collector of Poona].

(*2*) The [5]* * collection of the Urban Immovable Property tax shall be made

(*a*) in any area within the limits of a municipality in the same manner in which the property tax [5]* * collected in the said area, and

(*b*) in the [6][areas of the Cantonments of Ahmedabad, Poona and Kirkee,] as an arrear of land revenue :

Provided that if in any area within the limits of a municipality no property tax is levied by the municipality concerned, the Urban Immovable Property tax, shall be [5]* * collected in such manner as may be prescribed.

Penalty for default in payment of the Urban Immovable Property tax.

Bom. XVII of 1939.

[7][**24A.** (*1*) If any person, on being served either before or after the coming into force of the Bombay Finance (Second Amendment) Act, 1939, with a notice of demand in the [8]* * collection of the Urban Immovable Property tax in the manner provided in sub-section (*2*) of section 24, fails to pay within the period mentioned in the notice, any amount due from him on account of the said tax, the municipality or the Collector of Ahmedabad [9][or Poona], as the case may be, may, subject to the general or special orders of the [10][State] Government recover from him as a penalty a sum not exceeding one-fourth of the amount of the tax so unpaid, in addition to the amount of such tax payable by him :

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[1] Clause (*3*) in the Explanation was inserted by Bom. 6 of 1942, s. 5, read with Bom. 23 of 1948, s. 4.
[2] The words " levied and " were deleted by Bom. 1 of 1940, s. 4(*i*), read with Bom. 23 of 1948, s. 2.
[3] These words were inserted by Bom. 17 of 1939, s. 2. This provision shall be deemed to have come into force on 31st March 1939.
[4] These words were added by Bom. 9 of 1946, s. 5 (*i*), read with Bom. 23 of 1948, s. 8.
[5] The words " levy and " and the words " levied and " were deleted by Bom. 1 of 1940, s. 4 (*ii*), read with Bom. 23 of 1948, s. 2.
[6] These words were substituted for the words " area of the Cantonment of Ahmedabad " by Bom. 9 of 1946, s. 5 (*ii*) read with Bom. 23 of 1948, s. 8.
[7] Sections 24A and 24B were inserted by Bom. 17 of 1939, s. 3. These sections shall be deemed to have come into force on 31st March 1939.
[8] The words " levy and " were deleted by Bom. 1 of 1940, s. 5, read with Bom. 23 of 1948, s. 2.
[9] The words " or Poona " were inserted by Bom. 9 of 1946, s. 6, read with Bom. 23 of 1948, s. 8.
[10] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Provided that the municipality or the Collector, as the case may be, is satisfied that the person liable to pay the Urban Immovable Property tax has wilfully failed to pay the amount of such tax.

(2) Notwithstanding anything contained in sub-section (1), if the notice of demand in the [1]* * collection of the Urban Immovable Property tax has been served on any person before the coming into force of the Bombay Finance (Second Amendment) Act, 1939, no sum shall be recovered as a penalty under sub-section (1) unless the person on whom such notice has been served wilfully fails to pay the amount of the tax due within a period of 15 days from the date of the coming into force of the said Act or within the period mentioned in the notice, whichever period expires later. Bom XVII of 1939.

(3) Sums recoverable under this section shall be recovered in the manner provided in section 24 for the recovery of the Urban Immovable Property tax.]

Collection of the Urban Immovable Property tax and recovery of the penalty to be made by the appropriate municipal authority.

[2][**24AA.** The collection of the Urban Immovable Property tax under section 24 and the recovery of the penalty under section 21A on behalf of any municipality shall be made by the appropriate municipal authority appointed to collect the property tax on behalf of such municipality under the law under which such municipality is constituted.]

The Urban Immovable Property tax to be a first charge on premises on which it is leviable.

[3][**24B.** Notwithstanding anything contained in any law and notwithstanding any rights arising out of any contract or otherwise howsoever, all sums due on account of the Urban Immovable Property tax levied under section 22 or as a penalty imposed under section 24A for failure to pay such tax, in respect of any building or land, shall, subject to the prior payment of the land revenue, if any due to the [4][State] Government thereon, be a first charge upon the said building or land and upon the moveable property, if any, found within or upon such building or land and belonging to the person liable for such tax or penalty.]

Municipality entitled to rebate for cost of collection.

25. A Municipality required to [5]* * collect the Urban Immovable Property tax under this Part shall be entitled for its cost of collection to such rebate as may be prescribed.

Primary responsibility for the Urban Immovable Property tax.

26. (1) The Urban Immovable Property tax shall be leviable primarily on the actual occupier of the buildings or lands upon which the said tax is assessed, if he is the owner of the buildings or lands, or holds them on a building or other lease granted by or on behalf of Government, or on a building or other lease from any person or local authority.

(2) In other cases the Urban Immovable Property tax shall be primarily leviable as follows :—

(a) if the property is let, upon the lessor;

(b) if the property is sublet, upon the superior lessor;

(c) if the property is unlet, upon the person in whom the right to let vests.

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[1] The words "levy and" were deleted by Bom. 1 of 1940, s. 5, read with Bom. 23 of 1948, s. 2.
[2] This section was inserted by Bom. 1 of 1940, s. 6, read with Bom. 23 of 1948, s. 2.
[3] This section was inserted by Bom. 17 of 1939, s. 3.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] The words "levy and" were deleted by Bom. 1 of 1940, s. 7, read with Bom. 23 of 1948, s. 2.

(*3*) On failure to recover any sum due on account of the Urban Immovable Property tax from the person primarily liable, there may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion of the sum due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of the annual letting value thereof.

(*4*) An occupier who makes any payment for which he is not primarily liable under this section shall be entitled to be reimbursed by the person primarily liable for the payment and may deduct the amount so paid from the amount of any rent from time to time becoming due from him to such person.

Apportionment of responsibility for Urban Immovable Property tax when premises are let and rateable value exceeds the amount of rent.

[1][**26A.** (*1*) If any premises assessed to Urban Immovable Property tax are let and their rateable value exceeds the amount of rent payable in respect thereof to the person from whom, under the provisions of sub-sections (*1*) to (*4*) of section 26, the said tax is leviable, the said persons shall be entitled to receive from his tenant the difference between the amount of the Urban Immovable Property tax levied from him, and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

(*2*) If the premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the said tenant shall be entitled to receive from his sub-tenant or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under sub-section (*1*) from such tenant or sub-tenant and the amount of Urban Immovable Property tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(*3*) Any person entitled to receive any sum under sub-sections (*1*) and (*2*) shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same.]

[1] This section was added by Bom. 16 of 1951, s. 5.

Remission and refund.

27. [1][(*1*) When any building or land assessed to Urban Immovable Property tax is situated in [2][Greater Bombay]—

(*a*) if a drawback of the property tax is sanctioned in respect of such building or land under section 158 of the [3][Bombay Municipal Corporation Act] on or after 1st October 1939, or

Bom. III of 1888.

(*b*) if a refund of the property tax is sanctioned in respect of such building or land or any portion thereof under section 175 of the [3][Bombay Municipal Corporation Act] on or after 1st October 1939, or

Bom. III of 1888.

(*c*) if such building or any portion thereof is demolished or removed, otherwise than by order of the [4][Municipal Commissioner for Greater Bombay] on or after 1st April 1939 and notice in respect of such demolition or removal has been given to the Commissioner under section 153 of the [3][Bombay Municipal Corporation Act], the Municipal [5][Corporation of Greater Bombay] shall remit or refund such portion of the Urban Immovable Property tax, in such manner and subject to such conditions as may be prescribed.

Bom. III of 1888.

[6][(*1AA*) When any building or land assessed to Urban Immovable Property tax is situated in the City of Ahmedabad or City of Poona—

(*a*) if a drawback of the property tax is sanctioned in respect of such building or land ;

(*b*) if a refund of the property tax is sanctioned in respect of such building or land or any portion thereof :

(*c*) if such building or any portion thereof is demolished or removed, otherwise than by order of the Municipal Commissioner and notice in respect of such demolition or removal has been given to the Municipal Commissioner,

Bom. LIX of 1949.

under the provisions of the Bombay Provincial Municipal Corporations Act, 1949, the Municipal Corporation concerned shall remit or refund such portion of the Urban Immovable Property Tax, in such manner and subject to such conditions as may be prescribed.]

[1][(*1A*) When any building or land assessed to Urban Immovable Property tax is situated in any Municipal area other than [2][Greater Bombay], [7][City of Ahmedabad and City of Poona] if a remission or refund of the property tax is granted in respect of such building or land under sub-section (*2*) of section 69 of the Bombay District Municipal Act, 1901, or sub-section (*2*) of section 86 of the Bombay Municipal Boroughs Act, 1925, as the case may be, the Municipality concerned shall remit or refund such portion of the Urban Immovable Property tax, in such manner and subject to such conditions as may be prescribed.]

Bom. III of 1901. Bom. XVIII of 1925.

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[1] Sub-sections (*1*), (*1A*) and (*1B*) were substituted for the original sub-section (*1*) by Bom. 4 of 1941, s. 6 (*1*) read with Bom. 23 of 1948, s. 3. Sub-sections (*2*) and (*3*) of Bom. 4 of 1941 read as follows :—

(*2*) The amendments made by this section in section 27 of the said Act shall be deemed to have been made and to have taken effect from the 1st day of April 1939.

(*3*) Notwithstanding anything contained in section 27 of the said Act as amended by this section, no claim for remission or refund of any portion in the Urban Immovable Property Tax, levied in respect of any building or land for any period prior to the date of the coming into force of this Act, shall be admitted, if remission or a refund of a portion of such tax levied for such period has been granted before such date.

[2] These words were substituted for the words " the City of Bombay " by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[3] These words were substituted for the words and figures " City of Bombay Municipal Act, 1888 ", *ibid.*

[4] These words were substituted for the words " Municipal Commissioner for the City of Bombay ", *ibid.*

[5] These words were substituted for the words " Corporation of the City of Bombay ", *ibid.*

[6] Sub-section (*1AA*) was inserted by Bom. 37 of 1953, s. 10 (*1*).

[7] These words were inserted, *ibid*, s. 10 (*2*).

[1][(*1B*) When any building or land assessed to Urban Immovable Property tax is situated in the Cantonment of Ahmedabad, [2][Poona or Kirkee] if a remission or refund of the property tax is granted in respect of such building or land under section 75, 76 or 77 of the Cantonments Act, 1924, the Collector of Ahmedabad [3][or Poona, as the case may be], shall remit or refund such portion of the Urban Immovable Property tax, in such manner and subject to such conditions as may be prescribed.]

II of 1924.

(*2*) The burden of proving facts entitling any person to claim relief under this section shall be upon him.

Default of municipality.

28. (*1*) If any municipality makes default in the [4]* collection or payment to the [5][State] Government of any sum due in respect of the Urban Immovable Property tax, the [5][State] Government may, after holding such inquiry as it thinks fit, fix a period for the * collection or payment of such sum.

(*2*) If the [4]* collection or payment of such amount is not made within the period so fixed, the [5][State] Government may, [6][notwithstanding any law relating to the funds vesting in such municipality or any other law for the time being in force,] direct any bank in which any moneys of the municipality are deposited or the person in charge of the Government treasury or of any other place of security in which the moneys of the municipality are deposited to pay such sum from such moneys as may be standing to the credit of the municipality in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit by such bank or person ; and such bank or person shall be bound to obey such order.

(*3*) Every payment made pursuant to an order under sub-section (*2*) shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum so paid by it or him out of the moneys of the municipalities so deposited with such bank or person.

Application of Part VI to certain areas subject to certain modifications.

[7][**28A.** (*1*) The provisions of this Part shall continue to extend to any area specified in clause (*iv*) of section 20 notwithstanding such area ceasing to be a notified area, and being declared to be a municipal district under section 4 of the Bombay District Municipal Act, 1901, or a village under section 4 of the Bombay Village Panchayats Act, 1933.

Bom. III of 1901. Bom. VI of 1933.

(*2*) If such area is declared to be a municipal district, the provisions of this Part shall, after such declaration, apply to such area in such manner as they apply to any [8][municipal district constituted under the Bombay District Municipal Act, 1901].

Bom. III of 1901.

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[1] Sub-sections (*1*), (*1A*) and (*1B*) were substituted for the original sub-section (*1*) by Bom. 4 of 1941, s. 6 (*1*) read with Bom. 23 of 1948, s. 3. Sub-sections (*2*) and (*3*) of Bom. 4 of 1941 read as follows :—

(*2*) The amendments made by this section in section 27 of the said Act shall be deemed to have been made and to have taken effect from the 1st day of April 1939.

(*3*) Notwithstanding anything contained in section 27 of the said Act as amended by this section, no claim for remission or refund of any portion in the Urban Immovable Property Tax, levied in respect of any building or land for any period prior to the date of the coming into force of this Act, shall be admitted, if remission or a refund of a portion of such tax levied for such period has been granted before such date.

[2] These words were inserted by Bom. 9 of 1946, s. 7(*i*), read with Bom. 23 of 1948, s. 8.

[3] These words were inserted, *ibid*, s. 7(*ii*), read with Bom. 23 of 1948, s. 8.

[4] The word " levy " was deleted by Bom. 1 of 1940, s. 8, read with Bom. 23 of 1948, s. 2.

[5] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[6] These words were inserted by Bom. 17 of 1939, s. 4. This provision shall be deemed to have come into force on 31st March 1939.

[7] This section was inserted by Bom. 4 of 1941, s. 7, read with Bom. 23 of 1948, s. 3.

[8] These words and figures were substituted for the words, figures and brackets " municipal area specified in clause (*iii*) of the said section 20 " by Bom. 37 of 1953, s. 11.

Bom. VI of 1933. (*3*) If such area is declared to be a village under section 4 of the Bombay Village Panchayats Act, 1933, the provisions of this Part shall after such declaration apply to such area subject to the following modifications :—

(*i*) in section 21—

(*1*) after sub-clause (*b*) in clause (*1*), the following new sub-clause shall be inserted, namely :—

"(*bb*) in villages the annual letting value determined in the manner prescribed ;"

(*2*) in clause (*2*)—

(*a*) after the word " have " where it occurs for the first time the words "in the municipal areas and in the [1][areas of the Cantonments of Ahmedabad, Poona and Kirkee] " shall be inserted ; and

(*b*) after the words " as the case may be " the following shall be inserted, namely :—

" and in villages the same meanings as the words houses and lands have in the Bombay Village Panchayats Act, 1933."

Bom. VI of 1933.

(*3*) after clause (*5*), the following new clause shall be inserted, namely :—

Bom. VI of 1933. "(*5A*) 'Panchayat ' means a panchayat established under the Bombay Village Panchayats Act, 1933 " ; and

(*4*) after clause (*8*) the following new clause shall be inserted, namely :—

Bom. VI of 1933. "(*9*) 'Village' means a village as defined in clause (*16*) of section 3 of the Bombay Village Panchayats Act, 1933";

(*ii*) in section 22 in the second proviso after the words "Provided further that " the words " in the municipal areas and in the [1][areas of the Cantonments of Ahmedabad, Poona and Kirkee] " shall be inserted ;

(*iii*) in section 23 in clause (*c*) after the words " local board " the words " or a Panchayat " shall be inserted ;

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[1] These words were substituted for the words "area of the Cantonment of Ahmedabad" by Bom. 9 of 1946, s. 8 (*i*), read with Bom. 23 of 1948, s. 8.

(*iv*) in section 24—

(*1*) in sub-section (*1*) after clause (*b*) the following new clause shall be inserted, namely :—

"(*c*) in the areas within the limits of a village by the Collector or by such officer as he may authorise in this behalf " ; and

(*2*) in sub-section (*2*) in clause (*b*) after the word " [1][Kirkee] " the words " and in any area within the limits of a village " shall be inserted ;

(*v*) in section 24A in sub-section (*1*) for the words " Collector of Ahmedabad [2][or Poona] " the words " Collector concerned " shall be substituted ;

(*vi*) in section 27 after sub-section (*1B*) the following now sub-section shall be inserted, namely :—

"(*1C*) When any building or land assessed to Urban Immovable Property tax is situated in any village, if a remission or refund of the tax, levied on the owner or occupier of such building or land under the Bombay Village Panchayats Act, 1933, is granted under the said Act or the rules made thereunder, the Collector concerned shall remit or refund such portion of the Urban Immovable Property tax, in such manner and subject to such conditions as may be prescribed."

Bom. VI of 1933.

(*vii*) in section 29 in sub-section (*2*), after the words " following matters " the following new clause shall be inserted, namely :—

"(*aa*) the manner in which the annual letting value of buildings and lands in villages shall be determined ; "

(*4*) If any portion of the Urban Immovable Property tax due in respect of any building or land situate within any such notified area for any period prior to its ceasing to be a notified area has remained in arrears on the date on which such area ceased to be a notified area, such portion shall, notwithstanding anything contained in this Part or any law for the time being in force, be collected by the same authority by which and in the same manner in which such tax due in respect of the said building or land after such date may be collected.]

29. (*1*) The [3][State] Government may make rules for carrying out the purposes of this Part. Rules.

(*2*) Without prejudice to the generality of the foregoing provision such rules shall provide for the following matters :—

(*a*) the manner in which the Urban Immovable Property tax shall be [4]* * collected in any municipal area in which no property tax is levied ;

(*b*) the amount of rebate to which a municipality or other authority would be entitled under section 25 for the cost of collection of the Urban Immovable Property tax ;

(*c*) the time at and the manner in which the amount of the Urban Immovable Property tax collected shall be paid to the [3][State] Government ;

(*d*) the portion of the Urban Immovable Property tax which shall be refunded or remitted, and the manner in which, and the conditions subject to which, such remission or refund shall be granted ;

(*e*) such other matters which in the opinion of the [3][State] Government are required to be prescribed by rules.

(*3*) The rules made under this section shall be subject to the condition of previous publication.

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[1] This word was substituted for the word " Ahmedabad " by Bom. 9 of 1946, s. 8 (*ii*), read with Bom. 23 of 1948, s. 8.

[2] These words were inserted, *ibid.*

[3] This word was sub stituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The words " levied and " were deleted by Bom. 1 of 1940, s. 9, read with Bom. 23 of 1948, s. 2.

PART VII.

NEWSPAPER ADVERTISEMENTS TAX.

[Repealed by Act XXVIII of 1951, s. 3]

[1][PART VIII.

OTHER TAXES.

Amendment of Bom. I of 1923.

[2][41]. In the Bombay Entertainments Duty Act, 1923, for sub-section (*1*) of section 3, the following shall be substituted, namely :— Bom. I of 1923.

"(*1*) There shall from the 1st day of April 1948 be levied and paid to the Government of Bombay on all payments for admission to any entertainment a duty (hereinafter referred to as 'entertainments duty') at the following rate, namely :—

Where the payment, excluding the amount of duty, is made for admission to a race course licensed under the Bombay Race Course Licensing Act, 1912, Bom. III of 1912.
37½ per cent. of such payment, and in any other case,

where the payment, excluding the amount of the duty—

(*i*) does not exceed four annas ..	one anna.
(*ii*) exceeds four annas but does not exceed eight annas.	two and half annas.
(*iii*) exceeds eight annas but does not exceed one rupee.	five annas.
(*iv*) exceeds one rupee but does not exceed two rupees.	ten annas.
(*v*) exceeds two rupees but does not exceed four rupees.	one rupee and four annas.
(*vi*) exceeds four rupees but does not exceed five rupees.	two rupees.
(*vii*) exceeds five rupees but does not exceed ten rupees.	two rupees and eight annas.
(*viii*) exceeds ten rupees, for every five rupees or part therof in excess of the first ten rupees, in addition to the payment on the first ten rupees.	two rupees and eight annas."

Amendment of Bom. VI of 1925.

[2][42]. In the Bombay Betting Tax Act, 1925,— Bom. VI of 1925.

(*a*) in section 5, for the figures and words "10 per cent." the figures and words "12½ per cent." shall be substituted ;

(*b*) in section 8, for the figures and words "10 per cent." the figures and words "12½ per cent." shall be substituted.]

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[1] This Part which was renumbered as VIII by Bom. 2 of 1949 was added by Bom. 23 of 1948, s. 14.

[2] This section was renumbered by Bom. 2 of 1949, s. 9.

THE BOMBAY COTTON CONTRACTS ACT, 1932

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10. [*Repealed.*]
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*BOMBAY ACT No. IV OF 1932.[1]

[THE BOMBAY COTTON CONTRACTS ACT, 1932.]

[*28th October 1937.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Repealed in part by Bom. 17 of 1938.

An Act to provide for the better regulation and control of transactions in Cotton in Bombay.

5 and 6 Geo. V. c. 61.

WHEREAS it is expedient to provide for the better regulation and control of transactions in cotton and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called the Bombay Cotton Contracts Act, 1932. **Short title.**

2. (*1*) This Act shall apply to the City of Bombay and the Island of Salsette. **Extent and operation.**

(*2*) It shall come into operation on such date as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*], direct.

[4]* * * *

3. In this Act, unless there is anything repugnant in the subject or context, **Definitions.**

(*a*) "Bombay" means the City of Bombay and the Island of Salsette;

[5]* * * *

(*c*) "Board of Directors" means a board of directors of a recognised cotton association constituted under section 5 and acting through at least a quorum of their members at a meeting of that board duly called and constituted;

(*d*) "Certified godown" means a godown maintained by a cotton association for storing cotton certified under the by-laws af the association;

(*e*) "Contract" means a contract made or to be performed in whole or in part in Bombay relating to the sale or purchase of cotton and includes options in cotton, but does not include such contracts as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*,] declare to be excluded from the provisions of this Act;

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*On the date on which an association is recognised under section 3 of the Bombay Forward Contracts Control Act, 1947, in the City of Bombay and the Island of Salsette in respect of cotton, this Act shall cease to have force in each area. (*Vide* Bom. 64 of 1947 s. 14 (*1*).)

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Pt. V, pp. 139-140; for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXV.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] Sub-section (*3*) was deleted by Bom. 17 of 1938, s. 2 and First Sch.

[5] This clause was deleted, *ibid.*

(*f*) "Cotton Association" means any association, organisation or a body of individuals, whether incorporated or not, established or formed for the purpose of regulating and controlling business in the sale, purchase or other transactions in cotton;

(*g*) "Forward contract" means a contract for the delivery of cotton at some future date;

(*h*) "Option in cotton" means a contract made or to be performed in whole or in part in Bombay for the purchase or sale of a right to buy, or a right to sell or a right to buy or sell cotton in future, and includes a *teji*, a *mandi* or a *teji-mandi* in cotton;

(*i*) "Ready contract" means a contract in which immediate delivery of cotton is contemplated;

(*j*) "Recognised cotton association" means a cotton association which is for the time being recognised by the [1][Provincial Government], as provided in section 4.

Recognition.

4. (*1*) A cotton association, desirous of being recognised for the purposes of this Act, shall make an application in writing to the [1][Provincial Government] for such recognition and shall submit by-laws for the regulation and control of transactions in cotton and furnish such information in regard to such recognition as the [1][Provincial Government] may from time to time require.

(*2*) The [1][Provincial Government] may give or refuse such recognition.

(*3*) The [1][Provincial Government] shall refuse recognition unless—

(*a*) it is provided in the by-laws submitted by the cotton association under sub-section (*1*) that not less than one-fourth of the total number of the Board of Directors of the cotton association applying for recognition shall be growers of cotton to be appointed in the manner prescribed in the said by-laws and approved by the [1][Provincial Government]; and

(*b*) the [1][Provincial Government] is satisfied that the sole possession and effective management, control and regulation of the markets of the cotton association applying for recognition and of the market places of the said cotton association are vested in the said cotton association.

(*4*) The [1][Provincial Government] shall also refuse recognition unless the by-laws submitted by the cotton association under sub-section (*1*) shall have been published in the [2][*Official Gazette*] at least one month before the date of such recognition:

Provided that when, in the opinion of the [1][Provincial Government], the conditions precedent to recognition specified in sub-clauses (*a*) and (*b*) of sub-section (*3*) are satisfied in the case of a cotton association applying for recognition under sub-section (*1*) and the by-laws of the said cotton association are similar in all other material respects to the articles and by-laws of the East India Cotton Association, Limited, deemed or which have been deemed under the provisions of sub-section (*7*) to be by-laws of a recognised cotton association the [1][Provincial Government] may dispense with the publication, required under this sub-section of the by-laws of the cotton association applying for recognition and may give recognition to such association and the by-laws of such association shall then be deemed to be by-laws published under the provisions of this sub-section.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" *ibid.*

(*5*) When the [1][Provincial Government] has dispensed with the publication of the by-laws of a cotton association and has given recognition to such association under the provisions of the proviso to sub-section (*4*), such by-laws shall be published in the [2][*Official Gazette*] next following the giving of recognition to such association.

(*6*) The [1][Provincial Government] may, at any time after having given to a cotton association an opportunity to explain why recognition should not be withdrawn, withdraw the recognition given to the said cotton association and such cotton association shall thereupon cease to be a recognised cotton association.

(*7*) It is hereby declared that the East India Cotton Association, Limited, is a recognised cotton association for the purposes and subject to the provisions of this Act and the articles and by-laws of the said Association shall, so far as they relate to matters for which by-laws may be made under the provisions of sections 5 and 6, be deemed to be by-laws of a recognised cotton association:

Provided that, if, within such time after the coming into operation of this Act as the [1][Provincial Government] shall by order in writing specify, the said Association shall not have complied with the conditions precedent to recognition specified in clauses (*a*) and (*b*) of sub-section (*3*), the said association shall cease to be a recognised cotton association and the said articles and by-laws of the said association shall cease to be by-laws of a recognised cotton association:

Explanation.—A grower of cotton shall not include a person who deals in forward contracts.

Recognised association to have Board of Directors: power to make by-laws.

5. (*1*) [3]* * * * * In every recognised cotton association there shall be a Board of Directors. Subject to the sanction of the [1][Provincial Government], a recognised cotton association may make and may from time to time add to, vary or rescind by-laws providing for—

(*a*) the constitution of the Board of Directors,

(*b*) the powers and duties of the Board of Directors and the manner in which its business shall be conducted,

(*c*)the number and constitution of electoral panels and the representation upon such panels, and

(*d*) the method of appointment of members to the Board of Directors.

(*2*) By-laws made, added to, varied or rescinded under sub-section (*1*) shall be laid [4][before each of the Chambers of the Provincial Legislature] at the session [5][thereof] next following and shall be liable to be modified or rescinded by a resolution [6][in which both Chambers concur]. If any by-law is so modified or rescinded, the [1][Provincial Government] may sanction such modified by-law and re-publish the same accordingly or may sanction such rescission.

Power of Board of Directors to make by-laws.

6. (*1*) The Board of Directors may, subject to the sanction of the [1][Provincial Government], make and, from time to time, add to, vary or rescind by-laws for the regulation and control of transactions in cotton.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "Subject to the provisions of section 9", were deleted by Bom. 17 of 1938, s. 2 and First Schedule.

[4] These words were substituted for the words "upon the table of the Bombay Legislative Council," *ibid.*

[5] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[6] These words were substituted for the words "of the said Council", *ibid.*

(2) In particular and without prejudice to the generality of the foregoing provision such by-laws may provide for—

(*a*) the admission of various classes of members of a recognised cotton association and the exclusion, suspension, expulsion and re-admission of such members;

(*b*) the opening and closing of markets in cotton and the times during which such markets shall be opened or closed and regulating the hours of trade;

(*c*) a clearing house for the periodical settlement of contracts or differences thereunder and for the passing on of delivery orders and for any purpose in connection with options in cotton, and the regulation and maintenance of such clearing house;

(*d*) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(*e*) fixing, altering or postponing settling days;

(*f*) determining and declaring the market rates for cotton of any and every description;

(*g*) the terms, conditions and incidents of contracts and the forms of such contracts as are in writing;

(*h*) regulating the making performance and cancellation of contracts, including contracts between a commission agent and his constituent, or between a broker and his constituent, or between a jethawala or muccadum and his constituent, or between a member and a non-member of a recognised cotton association, and the consequences of insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the rsponsibility of commission agents, muccadums and brokers not parties to such contracts;

(*i*) the prohibition of specified classes or types of dealings in cotton by a member of a recognised cotton association;

(*j*) the settlement of claims and disputes by arbitration and appeals against awards;

(*k*) the levy and recovery of subscriptions, fees, fines and penalties;

(*l*) disciplinary measures against members of a recognised cotton association, including suspension, expulsion, fines and non-monetary penalties, for breach of any by-law made by the Board of Directors;

(*m*) regulating the course of business between parties to contracts in any capacity;

(*n*) the institution, maintenance and control of certified godowns; and

(*o*) regulating the making, performance and cancellation of option in cotton.

(3) If any person committing a breach of any by-law of a recognised cotton association is a company, every director and officer of such company shall also be deemed to have committed such breach, unless he proves that the breach was committed without his knowledge and control.

Publication of by-laws.

7. By-laws made under section 5 or 6 shall be subject to the condition of previous publication and, when sanctioned by the [1][Provincial Government], shall be published in the [2][*Official Gazette*].

Void contracts.

8. (*1*) Save as hereinafter provided in this Act, any contract (whether either party thereto is a member of a recognised cotton association or not) which is entered into after the date on which this Act comes into operation and which is not in accordance with the by-laws of any recognised cotton association shall be void.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*2*) No claim shall be allowed in any court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

9. [*Supersession of Board of Directors and appointment of Board of Control, its powers and duties*] *Rep. by Bom.* 17 *of* 1938, *s.* 2 *and First Schedule.*

10. [*Prohibition of certain contracts after appointment of the Board of Control*] *Rep. by Bom.* 17 *of* 1938 *s.* 2 *and First Schedule.*

Bar of suits and proceedings against officers, etc.

11. No suit, prosecution or other legal proceedings whatsoever shall be entertained in any court against any officer or servant of a recognised cotton association [1]* * * for anything in good faith done or intended to be done in pursuance or execution of this Act or by-laws made thereunder.

Savings.

12. (*1*) Contacts entered into under the provisions of the Bombay Cotton Contracts Act, 1922 shall, be deemed to be valid, except in so far as they may be inconsistent with any of the provisions of this Act and by-laws made thereunder.

Bom. XIV of 1922.

(*2*) Forward contracts entered into before the date when this Act comes into operation and which would not have been void under the provisions of the Bombay Cotton Contracts Act, 1922, shall not be deemed to be void merely because they contravene the provisions of this Act and by-laws made thereunder.

Bom. XIV of 1922.

[1] The words " or Board of Control " were deleted by Bom. 17 of 1938, s. 2 and First Schedule.

BOMBAY ACT No. IX OF 1932.[1]

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1932.]

[*10th November 1932*]

An Act further to amend the Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay.

IX of 1887. WHEREAS it is expedient further to amend the [2]Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Provincial Small Cause Courts (Bombay Amendment) Act, 1932.

Amendment of the Second Schedule to Act IX of 1887.

2. In sub-clause (*a*) of clause 4 in the Second Schedule to the said Act, between the words " a written instrument " and " and " the following words shall be inserted namely:—

" or orally "

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1931, Pt. V, pp. 243-244; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1931, Vol. XXXII, 1932, Vol. XXXV.

[2] *See* Central Acts.

THE BOMBAY WEIGHTS AND MEASURES ACT, 1932.

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[THE BOMBAY WEIGHTS AND MEASURES ACT, 1932.]

[*1st December 1932*]

Amended by Bom. 9 of 1935.
" " " 33 of 1935.
" " " 22 of 1936.
" " " 5 of 1937.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 1 of 1939.
" " " 15 of 1947.
" " " 56 of 1948.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 17 of 1951.
" " " 39 of 1951.
" " " 15 of 1955.

An Act to fix a scale of standard weights and measures for the Presidency of Bombay.

WHEREAS it is expedient to fix a scale of standard weights and measures for the presidency of Bombay and to provide for the adoption of the same in specified areas in the said presidency [2][and for certain other matters hereinafter appearing]; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

PART I.

PRELIMINARY.

1. This Act may be called the Bombay Weights and Measures Act, 1932. Short title.

2. (*1*) This Act shall apply to the whole of the presidency of Bombay. Extent and commencement.

(*2*) Part I shall come into force at once. Government may, by notification in the [3][*Official Gazette*], direct that Parts II, III, V and VI shall come into force in any district or municipal area on a date to be specified in such notification.

(*3*) When Government has directed that Parts II, III, V and VI shall come into force in any district or municipal area under sub-section (*2*), Part IV shall come into force in such district or municipal area three months after the dates specified in the notification.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Inspector" means an inspector of weights and measures and weighing or measuring instrument appointed under section 19;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Pt. V, pp. 126–130; for Report of the Select Committee, see *ibid.*, 1932, Pt. V, pp. 126–130; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXV.

[2] These words were inserted by Bom. 56 of 1938, s. 2.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(2) "Measuring instrument" includes any instrument for the measurement of length, area, capacity or volume;

(3) "Mint" means [1][Government Mint], Bombay;

(4) "Mint Master" means the officer appointed for the time being to be the Master of the Mint, Bombay;

(5) "Prescribed" with its grammatical variations means prescribed by rules [2]* * * * made under this Act:

(6) "Primary standards" mean the weights and measures prepared and stamped under section 5;

[3][(7) "rules" means the rules made under section 41;]

(8) "Secondary standards" mean the weights and measures prepared and stamped under section 7;

[4][(8A) "Stamping" includes casting, engraving, etching, branding, or otherwise marking in such manner as to be, so far as practicable, indelible and the expression "stamp" and other expressions relating thereto shall be construed accordingly;]

(9) The expression "verification" or "reverification" with its grammatical variations, used with reference to a weight or measure or weighing or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing or measuring instrument;

(10) "Weighing instrument" includes scales, with the weights belonging thereto, scale beams, balances, spring balances, steelyards, weighing machines, and other instruments for weighing; [5]*

(11) "Working standards" mean the weights and measures provided under section 9;

[6][(12) "Government" means in relation to the establishment of standards of weight [7][and measure], the Central Government, and save as aforesaid means, the [8][State] Government.]

PART II.

STANDARDS OF WEIGHTS AND MEASURES.

Standard weights and measures.

4. [9][(1)] The weights and measures including the multiples and sub-multiples thereof described in the First Schedule shall be the weights and measures authorised to be used in every place in which this Part has come into force. These weights and measures are called standard weights and measures for the purposes of this Act.

[10][(2) Notwithstanding anything contained in sub-section (1), Government may, after previous publication by notification in the [11][*Official Gazette*], declare, either generally or for any trade or class of trades—

(a) any other multiple or sub-multiple of a weight or measure specified in the First Schedule, or

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[1] These words were substituted for the words "His Majesty's Mint" by the Adaptation of Laws Order, 1950.

[2] The words "or regulations" were deleted by Bom. 15 of 1955, s. 2 (1).

[3] This clause was substituted for the original, *ibid.*, s. 2 (2).

[4] This clause was inserted by Bom. 56 of 1948, s. 3.

[5] The word "and" was deleted by Bom. 39 of 1951, s. 2, First Schedule.

[6] Clause (12) was inserted by the Adaptation of Indian Laws Order in Council.

[7] These words were inserted by the Adaptation of Laws Order, 1950.

[8] This word was substituted for the word "Provincial", *ibid.*

[9] Section 4 was renumbered as sub-section (1) of that section by Bom. 33 of 1935, s. 2.

[10] Sub-section (2) was added, *ibid.*

[11] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*b*) any other weight or measure, or any multiple or sub-multiple thereof, to be a weight or measure authorised to be used in any place in which this Part has come into force.

The weight, measure, multiple or sub-multiple shall, to the extent so declared, be deemed to be a standard weight or measure for the purposes of this Act.]

5. For the purpose of verifying the secondary standards, such standard weights and measures as Government may direct shall be prepared [1]* * * by the Mint Master [2][or by such other person as may be approved by Government]. They shall be made of such material, weight, length, form and specifications and in such manner as may be determined by Government by notification in the [3][*Official Gazette*]. They shall be stamped with the stamp of the Mint [4][or in such other manner as Government may approve]. The standard weights and measures so prepared and stamped shall be called primary standards. Primary standards.

6. The primary standards shall be kept in the custody of such officer in the City of Bombay as Government may direct. They shall, once at least in every period of five years, be verified, and if necessary, adjusted or renewed, at the Mint in such manner and by such officer as Government may direct. Custody of primary standards.

7. For the purpose of verifying the working standards and weights and measures in use in any area, such standard weights and measures as Government may direct, shall be prepared [5]* * * by the Mint Master [6][or by such other person as may be approved by Government]. They shall be made of such material, weight, length, form and specifications and in such manner as may be prescribed and shall be stamped with the stamp of the Mint [7][or in such other manner as Government may approve]. The standard weights and measures so prepared and stamped shall be called secondary standards. Secondary standards.

8. (*1*) The secondary standards shall be kept— Custody and verification of secondary standards.

(*i*) in the City of Bombay by such officer and at such place as Government may direct;

(*ii*) elsewhere by the Collectors in the Government treasuries at the head-quarter towns of their respective districts and at such other town or place within their respective districts as Government may direct.

[8]* * * * * * *

(*3*) Once at least in every period of five years such secondary standards shall be verified with the primary standards and shall be adjusted or renewed, if necessary, and shall be marked with the date of verification, in the prescribed manner by such officer as Government may direct.

(*4*) A secondary standard which is not so verified, adjusted or renewed and marked within the aforesaid period shall not be deemed legal and shall not be used for the purposes of this Act.

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[1] The words "at the Mint" were omitted by Bom. 9 of 1935, s. 2 (*1*).
[2] These words were inserted, *ibid.*
[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.
[4] These words were inserted by Bom. 9 of 1935, s. 2 (*2*).
[5] The words "at the Mint" were omitted, *ibid.*, s. 3 (*1*).
[6] These words were inserted, *ibid.*
[7] These words were inserted, *ibid.*, s. 3 (*2*).
[8] Sub-section (*2*) was deleted by Bom. 15 of 1955, s. 3.

Working standards.

9. (*1*) For the purpose of verifying weights and measures in use in any area, Government may provide such standard weights and measures as it thinks fit, to be working standards. They shall be made of such material, weight, length, form and according to such specifications and shall be prepared by such agency and shall be stamped by such person and in such manner as may be prescribed. When they are not prepared at the Mint, they shall be verified with the secondary standards before being stamped.

(*2*) The working standards shall be kept by such officers [1]* * * * * * * as Government may direct at such places, in such custody and in such manner as may be prescribed.

(*3*) A working standard shall be verified or re-verified and marked by such person, at such place and in such manner, as may be prescribed.

(*4*) A working standard shall not be deemed legal, or be used for the purposes of this Act, unless it has been verified or re-verified and marked in the prescribed manner within such period as may be prescribed before the time at which it is used.

A working standard which has become defective shall not be legal, or be used for the purposes of this Act, until it has been re-verified and marked in the prescribed manner.

Weighing and measuring instruments.

10. Weighing and measuring instruments stamped in the manner prescribed by such officer as Government may direct shall be kept at all places where secondary standards or working standards are kept. Such instruments shall be of such kind, kept in such number and shall be verified, adjusted or renewed in such manner as may be prescribed.

11. [*Duty of certain municipalities and local boards to provide and maintain secondary standards, etc.*] *Deleted by Bom. 15 of 1955, s. 5.*

Use of standard weights and measures for particular trades.

[2][**11A.** (*1*) Government may, by notification in the *Official Gazette*, declare that such standard weights or measures or weighing or measuring instruments shall, notwithstanding anything contained in this Act, be used for such trade or class of trades in such area from such date and subject to such conditions as may be specified in the notification.

(*2*) On and from the date specified in the notification under sub-section (*1*), no weight or measure or weighing or measuring instrument other than the one specified in such notification shall be used in such trade or class of trades.]

Prohibition of weights and measures other than standard weights and measures.

12. (*1*) Subject to the provisions of section 46, and notwithstanding anything contained in any law for the time being in force, all dealings or contracts, had or made in any area after this Part shall have come into force in the said area for any work to be done or goods to be sold or delivered by weight or measure, shall be deemed to be had or made according to one of the standard weights or measures or to multiples [3][or sub-multiples] thereof and it shall not be lawful to use any other weight or measure in relation to any such dealing or contract.

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[1] The words "and such municipalities and local boards" were deleted by Bom. 15 of 1955, s. 4.

[2] This section was inserted by Bom. 56 of 1948, s. 4.

[3] The words "or sub-multiples" were inserted by Bom. 33 of 1935, s. 3.

(2) Any dealing or contract had or made in contravention of the provisions of sub-section (1) so far as it contravenes the said provisions shall be void unless it is proved that such dealing or contract was had or made without intention to contravene the said provisions.

Explanation.—Unless there is anything repugnant in the subject or context, dealing or contract is hereinafter called " trade "

Custom for excess or less quantity to be demanded or received void.

[1][**12A.** Any custom, usage, practice or method of whatever nature which permits in any trade [2][a trader, a seller or a buyer] to demand, receive or cause to be demanded or received any quantity of article in excess of or less than the quantity fixed by the weight or measure by which the contract or dealing [3][in respect of the said article] has been made shall be void.]

PART III.

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES.

[5][Denomination].

13. Every weight which conforms to the provisions of this Act and the rules [4]* * except where the small size of the weight renders it impracticable, shall have the denomination thereof stamped on the top or side thereof in legible figures and letters. Every measure of length, area, capacity or volume, which conforms to the provisions of this Act and the rules [4]* * shall have the denomination thereof stamped on the outside of such measure in legible figures and letters. A weight or measure which does not conform to the provisions of this section shall not be stamped in accordance with the provisions of this Act and the rules [4]* *

Stamping and verification of weights and measures.

14. (1) No weight or measure shall be used for trade unless it has been verified or re-verified in the prescribed manner and stamped by an inspector with a stamp of verification under this Act.

(2) Government may prescribe the amount of error to be tolerated in weights or measures or weighing or measuring instrument used for trade.

Use of weighing or measuring instrument not verified and stamped prohibited.

15. No weighing or measuring instrument shall be used for trade unless it has been verified or re-verified within the period fixed and stamped in the prescribed manner by an inspector with a stamp of verification.

Sale or delivery of weight, measure, weighing or measuring instrument not verified and stamped prohibited.

16. No weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified or re-verified and stamped in the prescribed manner by an inspector with a stamp of verification.

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[1] This section was inserted by Bom. 56 of 1948, s. 5.
[2] These words were substituted for the words " a seller or a buyer " by Bom. 15 of 1955, s. 6 (1).
[3] These words were substituted for the words " for the sale of the said article ", *ibid.*, s. 6 (2).
[4] The words " and regulations " were deleted, *ibid.*, s. 7.
[5] This marginal note was substituted for the original by Bom. 56 of 1948, s. 5.

17. [*Empowering municipalities and district local boards to stamp weights, etc.*] *Deleted by Bom. 15 of 1955, s. 8.*

Provision of means of verification and stamping.

18. Government shall provide proper and sufficient means for verifying, adjusting and stamping weights and measures and weighing of measuring instruments in the City of Bombay, in all headquarter towns in the districts and at such other places as Government may determine :

[1]* * * * * * * *

Appointment of inspectors of weights and measures.

19. (*1*) Government shall appoint a sufficient number of persons with prescribed qualifications as inspectors for keeping the secondary and working standards in safe and proper custody and for the discharge of the other duties of inspectors under this Act and the rules [2]* *

[3][(*2*) In the exercise of their powers and in the discharge of their duties and functions under the provisions of this Act and rules, the Inspectors shall, subject to the general or special orders of the State Government, be subordinate to and under the control of such officer or officers as the State Government may by order authorize in this behalf. The Inspectors shall be bound to follow such directions as the officer so authorized may from time to time make.

(*3*) The powers and duties conferred on the Inspectors by this Act or rules may also be exercised and performed by the officer or officers so authorized.]

Inspectors to enter into recognizance.

20. Every inspector shall forthwith on his appointment enter into a recognizance with Government [4] * * * * * * in such sum as may be prescribed for the due performance of the duties of his office, for the due payment, at the time and in the manner required by the authority appointing him, of all moneys received by him under this Act and for the safety of the secondary and working standards and the stamps and appliances for verification committed to his charge and for their due surrender immediately on ceasing to hold office.

Requiring persons, dealers, etc., to keep books, accounts and records.

[5][**20A.** (*1*) Every person using weights or measures or weighing or measuring instruments for trade shall maintain such records, and

(*2*) every dealer, repairer or manufacturer in any weights or measures or weighing or measuring instruments shall maintain such books, accounts and records, relating to weights or measures or weighing or measuring instruments and in such manner as may be prescribed and shall produce them for inspection in such manner as may be prescribed.]

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[1] The proviso was deleted by Bom. 15 of 1955, s. 9.

[2] The words " and regulations " were deleted, *ibid.*, s. 10 (*a*).

[3] Sub-sections (*2*) and (*3*) were substituted for the original, *ibid.*, s. 10 (*b*).

[4] The words" or the municipality or district local board, as the case may be," were deleted, *ibid.*, s. 11.

[5] This section was inserted by Bom. 56 of 1948, s. 7.

Verification and stamping by inspectors.

21. (*1*) Every inspector shall, for the purposes of the verification of weights and measures and weighing or measuring instruments, attend at such time and place within his jurisdiction as may be appointed in this behalf by the authority appointing him.

[1][(*2*) He shall verify every weight and measure or weighing or measuring instrument which is brought to him for the purpose of verification or re-verification. If he finds such weight or measure or weighing or measuring instrument correct, he shall stamp the same with a stamp of verification in the prescribed manner.]

Power to inspect weights, etc. and to enter shops, etc., for that purpose.

22. (*1*) Every inspector authorised in writing in this behalf by the authority appointing him may, at all reasonable times, inspect all weights and measures and weighing or measuring instruments, within the area under his charge, which are used or are in the possession of any person or are on any premises for use for trade and may verify every such weight or measure or weighing or measuring instrument with a secondary or working standard or a weighing or measuring instrument prescribed for this purpose [2][and may also verify the weight or measure of any article, delivered by such person in the course of trade to any other person with such secondary or working standard or weighing or measuring instrument].

[3][(*1A*) Such Inspector may, at all reasonable times, require any trader or any employee or agent of a trader to produce before him for inspection all weights, measures and weighing or measuring instruments which are in his possession and are kept on any premises used for trade, whether or not such weights, measures or instruments are used, or are in his possession for use, for trade.]

(*2*) Such inspector may seize and detain any weight or measure or weighing or measuring instrument regarding which an offence under this Act appears to have been committed or which appears to have been or which may be used for the commission of such offence.

(*3*) For the purpose of such inspection, the inspector may at all reasonable times enter into any place where weights and measures and weighing or measuring instruments are used or kept for purpose of trade and inspect such weights and measures and weighing or measuring instruments.

Inspector not to be maker, seller or adjuster of weights and measures or weighing or measuring instruments.

23. An inspector shall not, during the time he holds office, derive any profit from or be employed in the making, adjusting, or selling of weights or measures or weighing or measuring instruments :

Provided that in any area in which it appears to Government desirable that an inspector should be allowed to adjust weights or measures or weighing or measuring instruments, Government may, if it thinks fit, authorise such inspector to adjust weights, measures or such instruments accordingly.

24. [*Inspectors to be public servants.*] *Deleted by Bom. 15 of 1955, s. 14.*

Government may determine difference

25. [4][(*1*) If any difference arises between an Inspector and any person interested as to the meaning or construction of any rule or as to the method of verifying, adjusting or stamping any weight or measure or weighing or measuring

[1] This sub-section was substituted for the original sub-sections (*2*) and (*3*), by Bom. 15 of 1955, s. 12.
[2] These words were inserted, *ibid.*, s. 13.
[3] This sub-section was inserted by Bom. 15 of 1947, s. 3.
[4] This sub-section and marginal note were substituted for the original by Bom. 15 of 1955, s. 15.

instrument, such difference may, at the request of the party interested or by the Inspector of his own accord be referred to such officer as Government may direct and the decision of such officer shall, subject to the provisions of sub-section (*2*), be final.]

(*2*) An appeal shall lie within the time prescribed from the decision under sub-section (*1*) to Government or such officer as Government may appoint in this behalf. The decision of Government or such officer under this sub-section shall be final.

26. [*Expenses of municipality and district local board.*] *Deleted by Bom. 15 of 1955, s. 16.*

[1][27. Government shall charge such fees for the verification, re-verificatin, levy of fees, marking, adjustment and stamping of weights or measures or weighing or measuring instruments as may be prescribed.]

28. [*Power of municipalities and district local boards to combine for the purposes of the Act.*] *Deleted by Bom. 15 of 1955, s. 18.*

Validity of weights and measures, etc., duly stamped.

29. A weight or measure duly stamped by an inspector under this Act shall be a legal weight or measure in all places in which this part has come into force, unless false or defective, and shall not be liable to be re-stamped because used in any place other than that in which it was originally stamped.

Stamped weights, etc., to be *prima facie* deemed correct in any court.

30. A weight or measure or weighing or measuring instrument duly stamped under the provisions of this Act or the rules [2]* * * shall be deemed to be correct until its inaccuracy is proved, if it is produced in any court by any public servant having charge thereof under the direction of Government [3]* * * * * * * * * or by any person acting under the general or special authority of such public servant.

PART IV.

PENALTIES.

Penalty for fraudulent use of weight measure, etc.

31. Whoever fraudulently uses any weight or measure or weighing or measuring instrument, shall, on conviction, be punished with imprisonment of either description which may extend to three months or with fine extending up to rupees five hundred or with both.

Penalty for use of weight or measure in contravention of section 11A.

[4][31A. Whoever uses any weight or measure or weighing or measuring instrument in contravention of any notification issued under section 11A shall, on conviction, be punished with imprisonment of either description which may extend to three months or with fine which may extend to rupees five hundred or with both.]

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[1] This section was substituted for the original, by Bom. 15 of 1955, s. 17.
[2] The words "or regulations" were deleted *ibid.*, s. 19 (*1*).
[3] The words "or the municipality or district local board, as the case may be" were deleted *ibid.*, s. 19 (*2*).
[4] This section was inserted by Bom. 56 of 1948, s. 8.

Penalty for making, selling, disposing of false or defective weight, measure, etc.

32. Whoever wilfully or knowingly makes, sells or disposes of or causes to be made, sold or disposed of any weight or measure or weighing or measuring instrument which is false or defective shall, on conviction, be punished with rigorous imprisonment for a period which may extend to three months or with fine which may extend to rupees five hundred or with both.

Penalty for sale [2][or delivery in the course of any trade] by weight or measure other than standard weight or measure.

33. Whoever sells [1][or causes to be sold] [2][or delivers or causes to be delivered during the course of any trade] any article by any denomination of weight or measure other than one of the standard weights or measures shall, on conviction, be punishable with fine which may extend to rupees five hundred.

Penalty for use and possession of weight, measure, etc not authorised.

34. Whoever uses or has in his possession for use for trade any weight or measure or weighing or measuring instrument [4][which he knows to be false or defective or which is not authorised] , verified [5][or re-verified] or stamped under or in accordance with the provisions of this Act and the rules [6]* * shall, on conviction, be punishable with fine which may extend to rupees five hundred and any trade had or made by such weight or measure or weighing or measuring instrument shall be void.

[7][*Explanation* [8][*1*].—When any such weight or measure or weighing or measuring instrument is found in the possession of any trader or of any employee or agent of such trader, such trader, [9][employee or agent] shall be presumed, until the contrary is proved, to have had it in his possession for use for trade.]

[10][*Explanation 2.*—Where any weight or measure or weighing or measuring instrument is used or possessed in contravention of this section by any employee or agent of a trader on behalf of such trader, such trader shall, unless he proves that the offence under this section was committed by his employee or agent without his knowledge or consent be also deemed to be guilty of such offence.]

Penalty for giving short weight or measure.

[11][**35.** [12][Whoever in selling or delivering in the course of any trade, any article by weight or measure, sells or delivers or causes to be sold or delivered to any person]—

(*i*) in cases to which an amount of error prescribed under section 46A applies, short weight or measure, exceeding in shortage the amount of error so prescribed, or

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[1] These words were inserted, by Bom. 56 of 1948, s. 9.
[2] These words were inserted by Bom. 15 of 1955, s. 20 (*1*).
[3] These words were inserted, *ibid.*, s. 20 (*2*).
[4] These words were substituted for the words " which is not authorised " *ibid.*, s. 21(*a*).
[5] These words were inserted by Bom. 1 of 1939, s. 2 (*i*).
[6] The words " and re-gulations " were deleted by Bom. 15 of 1955, s. 21 (*b*).
[7] The Explanation was added by Bom. I of 1939, s. 2 (*ii*).
[8] This Explanation was renumbered as Explanation I, by Bom. 17 of 1951, s. 2 (*1*).
[9] These words were inserted by Bom. 17 of 1951, s. 2 (*1*).
[10] This Explanation was added by Bom. 17 of 1951, s. 2 (*2*).
[11] Section 35 was substituted for the original by Bom. 15 of 1947, s. 4.
[12] This portion was substituted for the original by Bom. 15 of 1955, s. 22.

(*ii*) in other cases, short weight or measure,

shall, on conviction, be punishable with fine which may extend to rupees three hundred.]

36. [*Penalty for possessing for use weight, etc., not verified or stamped.*] *Repealed of Bom. I of 1939, section 3.*

Penalty for sale or delivery of weight or measure, etc., not verified or stamped.

37. Whoever sells or delivers [1][or causes to be sold or delivered] any weight or measure or weighing or measuring instrument not verified or re-verified and stamped under this Act shall, on conviction, be punishable with fine which may extend to rupees one thousand.

Penalty for forging, etc., of weights, measure, etc.

38. (*1*) Whoever forges or counterfeits any stamp used under this Act for the stamping of any weight or measure or weighing or measuring instrument [2][or possesses any such counterfeit stamp] or removes a stamp from any weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument or wilfully increases or diminishes a weight or measure so stamped shall, on conviction, be punished with rigorous imprisonment for a period which may extend to six months or with fine or with both.

(*2*) Whoever knowingly uses, sells, utters, disposes of or exposes for sale any weight or measure or weighing or measuring instrument with such forged or counterfeit stamp thereon, or a weight or measure so increased or diminished shall, on conviction, be punished with rigorous imprisonment for a period which may extend to six months or with fine or with both.

Penalty for neglect or refusal to produce weight for inspection.

39. Whoever neglects or refuses to produce for inspection all weights or measures or weighing or measuring instruments in his possession or on his premises or refuses to permit an inspector authorized to examine the same or any of them or obstructs the entry of the inspector under section 22 or otherwise obstructs or hinders him in the performance of his duties shall, on conviction, be punishable with fine which may extend to rupees five hundred.

Penalty for demanding or receiving articles in excess of or less than quantity fixed by weight or measure.

[3][**39A.** Whoever in contravention of the provisions of section 12A, demands, receives or causes to be demanded or received any quantity of articles [4][in the course of any trade] shall, on conviction, be punished with fine which may extend to rupees three hundred.]

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[1] These words were inserted by Bom. 56 of 1948, s. 10.
[2] These words were inserted, *ibid.*, s. 11.
[3] This section was inserted, *ibid.*, s. 12.
[4] These words were substituted for the words "sold or bought" by Bom. 15 of 1955, s. 23.

Penalty for breach of duty by inspector.

40. If an inspector knowingly stamps a weight or measure or weighing or measuring instrument in contravention of the provisions of this Act or of the rules [1]* * * or is guilty of a breach of any duty imposed on him by this Act or by the rules [1]* * he shall, on conviction, be punished with imprisonment of either description for a period which may extend to one year or with fine or with both.

PART V.

RULES AND REGULATIONS.

Power of Government to make rules.

41. (*1*) Government may make rules[2] for carrying into effect the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing provision, such rules may prescribe—

(*a*) the composition, weight, length, form and specifications of secondary standards and the manner in which they shall be made;

[3]* * * * * * * * * * * *

(*c*) the procedure for the verification, re-verification, adjustment or renewal of primary and secondary standards and marking of secondary standards;

(*d*) the composition, weight, length, form and specifications and use of working standards, the authority by whom and the manner in which such standards shall be provided, the agency by whom such standards shall be made, the person by whom and the manner in which such standards shall be stamped, and the places at which and the custody and manner in which such standards shall be kept;

(*e*) the procedure for the verification or re-verification and marking of working standards and the person by whom and the place where they shall be verified or re-verified;

(*f*) the number of weighing and measuring instruments to be kept and necessary particulars regarding the same;

(*g*) the authority by whom certified scales shall be provided for the purposes of this Act and the rules [4]* * and the manner in which they shall be verified or re-verified;

(*h*) the composition, weight, length, form, specifications and manufacture of weights and measures in use in any area;

(*i*) the inspection, verification, re-verification, adjustment and stamping of weights and measures and weighing or measuring instruments in use in any area, including the prohibition of stamping in cases where the nature, denomination, material or mode of construction of the weight or measure or weighing or measuring instrument appears likely to facilitate the commission of fraud and the period within which such weights and measures and weighing or measuring instruments shall be verified or re-verified;

[5][(*ii*) the books, accounts and records relating to weights or measures or weighing or measuring instruments to be maintained and the manner in which they shall be maintained or produced;]

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[1] The words "or regulations" were deleted by Bom. 15 of 1955, s. 24.

[2] For Rules under this section, *see* G. N., G. D., No. 9492, dated 5th June 1934, published in the *B. G. G.*, Pt. I of 1934, pp. 1323-56. *See* also Bombay Rules and Orders, Vol. I.

[3] Clause (*b*) was deleted by Bom. 15 of 1955, s. 25 (*1*).

[4] The words "and regulations" were deleted, *ibid.*, s. 25 (*2*).

[5] This clause was inserted by Bom. 56 of 1948, s. 13.

(*j*) the circumstances and conditions under which and the manner in which stamps may be obliterated or defaced;

(*k*) the tests to be applied for the purpose of ascertaining the accuracy and efficiency of weights and measures and weighing or measuring instruments;

(*l*) the limits of error to be allowed on verification and to be tolerated on inspection either generally or as regards any trade;

(*m*) the amount of error to be tolerated in weights and measures and weighing or measuring instruments used or intended to be used for trade;

[1][(*mm*) the amount of error to be tolerated in selling articles by weight or measure generally or as regards any trade or class of trades;]

[2][(*mmm*) the method of using weight or measure or weighing or measuring instrument generally or for a specified class of trade;]

(*n*) the fees to be charged for the verification, re-verification, adjustment and stamping of weights and measures and weighing or measuring instruments and the collection and levy of the same;

(*o*) the seizure, detention and destruction of weights and measures and weighing or measuring instruments which are not authorized by this Act [3][* * * * * * * * *];

[4]* * * * * * * *

42. [*Power of municipality and district local board to make regulations.*] *Deleted by Bom. 15 of 1955, s. 26.*

PART VI.

MISCELLANEOUS.

Protection to persons acting in good faith.

43. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules or regulations.

Cognizance of offences.

44. No prosecution under this Act shall be instituted except by or with the previous sanction of [1][an officer authorized under sub-section (*2*) of section 19 and specially empowered] by Government in this behalf.

Offences by corporations and associations of persons.

[2][**44A.** Where a person committing an offence under this Act is a Company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.]

Delegation of powers by Government.

45. Any of the powers and duties conferred and imposed upon Government by this Act may be exercised and performed, subject to such conditions as Government may think fit, by any person whom Government may, by general or special order, empower in this behalf.

Power to exempt specified persons, articles or trades from provisions of the Act.

46. Government may, after previous publication by notification in the [3][*Official Gazette*], and subject to such conditions and restrictions as it may think fit to impose, exempt any class of persons, any commodity, trade, [4]* any class of trades [5][or any class of weights or measures or of weighing or measuring instruments used or intended to be used for any purpose other than trade] specified in the notification from all or any of the provisions of this Act.

Power to prescribe the amount of error to be tolerated in selling article by weight or measure.

[6][**46A.** Government may prescribe the amount of error to be tolerated in selling articles by weight or measure generally or as regards any trade or class of trades.]

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[1] These words, brackets and figures were substituted for the words "the Collector or any officer specially empowered by him or" by Bom. 15 of 1955, s. 27.
[2] This section was inserted by Bom. 17 of 1951, s. 3.
[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the adoptation of Indian Laws Order in Council.
[4] The word "or" was omitted by Bom. 33 of 1935, s. 4 (*i*).
[5] These words were inserted, *ibid.*, s. 4 (*ii*).
[6] Section 46A was inserted by Bom. 22 of 1936, s. 5.

Repeal and amendments.

47. On the coming into force of this Part in any area—

(*a*) the enactments specified in Part I of the Second Schedule shall be deemed to have been amended to the extent and in the manner specified in the third column thereof;

(*b*) the enactments specified in Part II of the said schedule shall be deemed to have been repealed, so far as they apply to the presidency of Bombay, to the extent specified in the third column thereof:

Provided that—

(*i*) the said repeal shall not affect the validity or invalidity of anything already done under the enactments repealed by this Act;

(*ii*) all appointments made, notifications and notices issued, rules, by-laws and orders made, contracts entered into and suits and other proceedings instituted under any Act or enactment repealed by this Act shall, so far as they are not inconsistent with the provisions of this Act and the rules and regulations, continue in force and be deemed to have been made, issued, entered into and instituted under this Act.

THE FIRST SCHEDULE.

(*See* section 4.)

Standard Weights and Measures.

Weights—

The Bombay Tola of 180 grains.

The Bombay Seer of 80 tolas.

The Bombay Maund of 40 seers.

The sub-multiples $\frac{1}{2}$, $\frac{1}{4}$, $\frac{1}{8}$, 1/16 and 1/32 and the multiples 2, 4 and 8 of the tola, seer and maund.

The pound avoirdupois equal to 7,000 grains and the sub-multiples $\frac{1}{8}$, $\frac{1}{4}$, $\frac{1}{2}$, 1, 2, 4 and 8 ounces, the multiples 1, 2, 4, 7, 14, 28 lbs. (a quarter), 56 lbs., 112 lbs. (1 cwt.) and 2,240 lbs. (1 ton).

The grain is that unit of weight in vacuo which when multiplied by 1799·84585 is the weight of the iridio-platinum cylinder in the custody of the Mint Master, Bombay, the value of which is certified by the Standard Department of the British Board of Trade as 1799·84585 grains in vacuo.

Explanation 1.—The equivalent value of the abovementioned iridio-platinum cylinder when weighed in Standard Indian Air against Brass Weights having a specific gravity of 8·143 is 1800·00394 grains, i.e., a brass weight whose value in vacuo is 1800·00394 grains will exactly equilibrate the abovementioned iridio-platinum cylinder in Standard Indian Air.

Explanation 2.—Since the Bombay tola equals 180 grains in vacuo, its absolute value is equivalent to ·10000856 of the absolute value of the abovementioned iridio-platinum cylinder. But in practice, all verifications against the abovementioned iridio-platinum cylinder are carried out by weighments in air, and therefore the value 1800·00394 grains is always used for verifying weights.

Explanation 3.—Standard Indian Air is defined as follows :—

Temperature : 85 deg. Fahr.—29·44 deg. Cent. Pressure : A column of mercury at 0 deg. C. 29·8 inches or 756·919 mm. in height. Carbon diox. gas : 0·0006 of the volume of air. Vapour tension : 0·75 inches = 19·05 mm. Latitude at Calcutta 22° 35′6·6″. Height above M. S. L.=22·6 feet. 1 litre of Standard Indian Air at Calcutta weighs 1·14917 grm.

Dry measures—
The Bombay seer.
The sub-multiples ½, ¼ and ⅛ seer.
The Bombay Chatak = 1/16 seer.
The Adpao = ½ seer.
The Adholi = 2 seers.
The Bombay payali of 4 seers.
The Bombay Maund of 16 payalis.
The Bombay Map of 2 maunds.

Liquid measure—
The Bombay seer.
The sub-multiples ½, ¼, ⅛ and 1/16 seer.
The multiples 2, 4 and 8 seers.
The Imperial gallon.
The Pint = ⅛ gallon.

Dry and Liquid measures—Explanations—

Explanation 1.—The unit of capacity called the Bombay seer is equivalent to the volume occupied by 80 tolas of air-free distilled water weighed in Standard Indian Air against brass weights having a specific gravity of 8·143.

Explanation 2.—The unit of capacity called the Imperial gallon contains ten British Standard pounds of water at 62° F. being in volume 277·274 cub. in., which contains each 252·724 grains of water in a vacuum at 62° or 252·458 grains of water weighed with the brass weights in air of 62° with the barometer at 30 in.

Length—
The Yard—
The Inch = 1/36th yard, and
The Foot = ⅓rd yard.
The Furlong of 220 yards.
The Mile of 1,760 yards.
The yard is that unit of length which is exactly equal to the certified yard kept in the custody of the Mint Master, Bombay.

Area and volume—

The Square Yard, Square Foot and Square Inch.
The Cubic Yard, Cubic Foot and Cubic Inch and sub-multiples of a Cubic Inch.
The anna of $\frac{1}{16}$ of the guntha.
The Guntha of 121 square yards and the acre of 4,840 square yards for land measurement.
The Square of 100 square feet.
The Brass of 100 cubic feet.

THE SECOND SCHEDULE.

(*See* section 47.)

PART I.

Enactments amended.

No. and year of Act.	Title.	Amendments.
		Acts of the Governor of Bombay in Council.
III of 1901 ...	The Bombay District Municipal Act, 1901.	For section 143 the following section shall be substituted, namely :—
		"143. The president, vice-president, or any councillor or officer authorized by the municipality in this behalf may at all reasonable times enter into any place [1][(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments." Powers of inspection of weights and measures etc.
VI of 1923 ...	The Bombay Local Boards Act, 1923.	After section 61A the following section shall be inserted namely :— [*See* section 61B of Bom. 6 of 1923,].
XVIII of 1925 ...	The Bombay Municipal Boroughs Act, 1925.	For section 177 the following section shall be substituted namely :— [*See* section 177 of Bom. 18 of 1925,].
[2][XVII of 1933 ...	The City of Karachi Municipal Act, 1933.	In section 165 after the word "place" the words, figures and brackets "(other than a place prescribed by Government by rules made under the Bombay Weights and Measures Act, 1932)" shall be inserted.

[1] These words, figures and brackets were inserted by Bom. 9 of 1935, s. 6 (*1*).
[2] The entry was added by Bom. 9 of 1935, s. 6 (*2*).

PART II.

Enactments repealed.

No. and year of Act.	Title.	Extent of repeal.
		Acts of the Governor General in Council.
XXXI of 1871 ...	The [1]Indian Weights and Measures of Capacity Act, 1871.	The whole.
II of 1889 ...	The [1]Measures of Length Act, 1889.	The whole.
		Acts of the Governor of Bombay in Council.
[2]Regulation XII of 1827.	A regulation for the establishment of a system of police throughout the zilas subordinate to Bombay for providing rules for its administration and for defining the duties and powers of all police authorities and servants.	Section 20.
III of 1886 ...	The Bombay General Clauses Act, 1886.	In Schedule B the entry relating to section 20 of Bombay Regulation XII of 1827.
III of 1888 ...	The City of Bombay Municipal Act, 1888.	Sections 418, 419 and 420. Section 461, clause (*o*), sub-clause (*i*). In section 471, the entries relating to section 420, sub-section (*2*), clauses (*a*), (*b*), (*c*) and (*d*) and sub-section (*3*), clauses (*a*) and (*b*).
III of 1901 ...	The Bombay District Municipal Act, 1901.	Clauses (*e*) and (*ee*) of sub-section (*1*) of section 48.
IV of 1904 ...	The Bombay District Municipal (Amendment) Act, 1904.	Section 3.
IV of 1921 ...	The City of Bombay Municipal (Amendment) Act, 1921.	Sections 2, 3 so far as it relates of sub-clause (*i*) of clause (*o*) of section 461 and section 4.
XVIII of 1925 ...	The Bombay Municipal Boroughs Act, 1925.	Clauses (*h*) and (*i*) of section 61.

[1] Central Act.
[2] *See* Vol. I of this Code.

THE BOMBAY (DISTRICT) TOBACCO ACT, 1933.

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SCHEDULE.

*BOMBAY ACT No. II OF 1933.[1]

[THE BOMBAY (DISTRICT) TOBACCO ACT, 1933.]

[*27th March 1933*]

Amended by Bom. 2 of 1935.
" " " 26 of 1935.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 6 of 1938.
Adapted and modified by the Adaptation of Laws Order, 1950.

An Act for the imposition and levy of fees on the sale of Tobacco in the Presidency of Bombay excluding the City of Bombay.

WHEREAS it is expedient to impose and levy licence fees on the sale of tobacco in the Presidency of Bombay excluding the City of Bombay; And whereas the previous sanction of the Governor General required by section 80A (*3*) of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

Short title and extent.

1. (*1*) This Act may be called the Bombay (District) Tobacco Act, 1933.

(*2*) It extends to the whole of the Presidency of Bombay except the City of Bombay and such area as [2][the [State] Government] may, by notification published in the [3][*Official Gazette*], exclude.

(*3*) It shall come into force from the 1st day of April 1933 [4]* * *.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[5][(*1A*) "Broker" means an agent whose ordinary course of business is to negotiate and make contracts for the sale and purchase of tobacco;]

(*1*) "Collector" includes any officer appointed under section 5 to exercise the powers and perform the duties of a Collector under this Act;

(*2*) "Commissioner" means an officer appointed under section 3 to be a Commissioner for the purposes of this Act;

(*3*) "Grower" means a person who by himself or by members of his household or by his servants, agents or tenants grows tobacco;

(*4*) "Hawker" means a person who goes from place to place or from house to house carrying or exposing for sale tobacco or exposing samples of tobacco to be afterwards delivered;

(*5*) "Holder" means a holder of a licence;

(*6*) "Licence" means a licence for the sale of tobacco granted under section 7;

(*7*) "Magistrate" means a magistrate of the first or second class or a magistrate of the third class specially authorised in this behalf by the District Magistrate;

(*8*) "Prescribed" means prescribed by rules;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Part V, pp. 474-477 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVII.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] The words "and shall remain in force for a period of four years" were deleted by Bom. 6 of 1938 s. 3.

[5] This clause was inserted by Bom. 2 of 1935, s. 3.

*This Act has been suspended by Bom. 11 of 1945, read with Bom. I of 1948.

(*9*) "Retail sale" means a sale other than a wholesale sale;

(*10*) "Rule" means a rule made under section 27:

(*11*) "Tobacco" includes bidis, cigarettes and cigars, the leaf, stalks and stem of the tobacco plant and any preparation or mixture of tobacco;

(*12*) "Tobacco Officer" means the Commissioner, a Collector or any other officer or person lawfully appointed or invested with powers under section 5;

(*13*) "Tobacco revenue" means revenue derived or derivable from any fee, fine (other than a fine imposed by a court of law) or confiscation imposed or ordered and all sums accruing to [1][the [2][State] Government], under the provisions of this Act; and

(*14*) "Wholesale sale" means a sale of tobacco to traders in that commodity for the purpose of trade.

Appointment and duties of Commissioner.

3. (*1*) [1][The [2][State] Government] may, by notification in the [3][*Official Gazette*], appoint for the whole or for any part of the Presidency of Bombay in which this Act shall be in force, an officer to be the Commissioner.

(*2*) The Commissioner shall, subject to the control of [1][the [2][State] Government], superintend the administration of the Tobacco Department and the collection of tobacco revenue.

Collectors charged with carrying out the Act.

4. Subject to the control and direction of the Commissioner and the orders of [1][the [2][State] Government], the Collectors are charged with the collection of tobacco revenue and with the carrying out of the provisions of this Act.

Appointment of special Collectors and other tobacco officers.

5. (*1*) [1][The [2][State] Government] may, by notification in the [3][*Official Gazette*], appoint any person other than the Collector of Land-revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of [1][the [2][State] Government], as [1][the [2][State] Government] may from time to time direct.

(*2*) The Commissioner may, subject to the general or special orders of [1][the [2][State] Government], [4][assign to any Tobacco Officer] such powers and duties under this Act, as he may deem fit.

(*3*) [1][The [2][State] Government], or subject to such orders as aforesaid, the Commissioner may invest any officer or person with such powers and impose upon him such duties under this Act, as [1][the [2][State] Government] or the Commissioner, as the case may be, may deem fit and any such officer shall thereupon exercise the said powers and discharge the said duties in addition to the powers and duties incident to his principal office.

Prohibition of sale of tobacco without licence.

6. No person shall sell or expose for sale any tobacco [5][or carry on business as a broker] except under and in accordance with the terms and conditions of a licence granted under section 7:

Provided that a grower of tobacco may, without licence, sell tobacco (other than bidis, cigarettes, cigars and any preparation or mixture of tobacco) grown by him:

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] These words were substituted for the words "appoint any person to be a Tobacco Officer and assign to him", *ibid.*

[5] These words were inserted by Bom. 2 of 1935, s. 4.

[1][Provided further that subject to the prescribed conditions [2][the Provincial Government] or the prescribed authority may exempt any person from taking out such a licence.]

Explanation.—The supply of tobacco by clubs to their members on payment of any price, fee or subscription is a sale within the meaning of this section.

Grant of licences.

7. [3](*1*) Every licence for the sale of tobacco whether wholesale, retail or by a hawker [4][or for carrying on business as a broker] shall be granted annually or for any less period by the Collector in the manner prescribed by [2][the Provincial Government] on payment of fees [5] * * specified, in the schedule hereto annexed.

(*2*) Such licences shall be in such form and subject to such conditions and restrictions as [2][the Provincial Government] may prescribe.

Levy of sale's tax.

[6][**7A.** Notwithstanding anything contained in section 7, the Provincial Government may in addition to the licence fee leviable under the said section, levy also a tax at such rates, subject to such conditions and in such areas as may be prescribed, on any sale of tobacco on *ad valorem* basis not exceeding 50 per cent. of the price of such sale.]

Suspension or revocation of licences.

8. (*1*) Subject to such conditions as may be prescribed by [2][the Provincial Government), the authority granting any licence may suspend or cancel the licence,

(*a*) if any fee payable under the licence is not duly paid ; or

(*b*) if there be any breach of any of the conditions of the licence or of any other licence previously granted to the holder either by the holder or his servant or any one acting on behalf of the holder with his express or implied permission.

(*2*) The holder shall not be entitled to any compensation for the cancellation or suspension of a licence under sub-section (*1*) nor to refund of any fees paid or deposit made in respect thereof.

(*3*) Where a licence is cancelled or suspended under sub-section (*1*) the balance of the fee payable under the licence may be recovered from the holder or his surety in the same manner as tobacco revenue.

Issue of warrants.

9. (*1*) The Commissioner or Collector or any other Tobacco Officer duly empowered in this behalf or a Magistrate may issue a warrant,—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence punishable under this Act, or

(*b*) for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that any tobacco is sold or is exposed for sale contrary to the provisions of this Act.

(*2*) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a Police Officer or by a Tobacco Officer duly empowered in this behalf or if the officer issuing the warrant deems fit by any other person.

V of 1898.

Power of entry, search, seizure and detention.

10. The Collector or any other Tobacco Officer duly empowered in this behalf may—

(*a*) enter and search, at any time, by day or by night, any building, vessel, vehicle or any place in which he has reason to believe that any tobacco liable to confiscation under this Act is kept or concealed ;

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[1] This proviso was added by Bom. 26 of 1935, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] Nothing in the Bombay (District) Tobacco (Amendment) Act, 1935, shall be deemed in any way to affect the validity, conditions or restrictions of a licence granted before the 31st day of March 1935, or any rights or liabilities acquired or incurred thereunder (*see* sectio 11 of Bom. 2 of 1935).

[4] These words were inserted by Bom. 2 of 1935, s. 5 (*1*).

[5] The words "subject to the maxima" were deleted, *ibid*, s. 5 (*2*).

[6] This section was inserted by Bom. 6 of 1938, s. 4,

(*b*) seize any tobacco or any other article which he has reason to believe is liable to confiscation under this Act; and

(*c*) detain and arrest any person whom he has reason to believe to be guilty of any offence punishable under this Act.

Searches how made.

11. All searches made under section 10 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Procedure for arrest without warrant.

12. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests without warrant made under section 10. V of 1898.

Officers bound to assist.

13. All village officers, all village servants, useful to [1][the Provincial Government], and all officers of the departments of Excise, Police and Revenue shall be bound—

(*a*) to give immediate information to a Tobacco Officer of the commission of any offence, or of the intention or preparation to commit any offence punishable under this Act which may come to their knowledge;

(*b*) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed; and

(*c*) to assist any Tobacco Officer in carrying out the provisions of this Act.

Tobacco Officer to have powers of investigation.

14. (*1*) Every Tobacco Officer not below such rank as [1][the Provincial Government] may determine, shall within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(*2*) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence: V of 1898.

Provided that—

(*a*) If such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report;

(*b*) the powers of a Tobacco Officer/empowered under this section shall be subject to such further modifications or restrictions as [1][the Provincial Government] may determine.

Offences under the Act to be bailable.

15. (*1*) All offences punishable under this Act shall be bailable.

(*2*) Any Tobacco Officer empowered under section 14 to investigate an offence punishable under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without warrant for an offence punishable under this Act. V of 1898.

Articles seized.

16. When anything has been seized by a Tobacco Officer exercising powers under section 14 such officer, after such inquiry as may be necessary—

(*a*) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken;

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*b*) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to his superior officer if any;

(*c*) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to his superior officer, if any, accordingly.

Penalty for contravention of this Act.

17. Whoever in contravention of this Act or of any rule or order made under this Act or of any terms or conditions of a licence sells or exposes for sale tobacco [1][or carries on business as a broker] shall be punishable on conviction with a fine not exceeding two hundred rupees.

Penalty for vexatious search or arrest.

18. Any Tobacco Officer or other person who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or place, or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person, shall, on conviction, be punishable for every such offence, with fine which may extend to two hundred rupees.

Penalty for vexatious delay in forwarding an arrested person to a Magistrate.

19. Any Tobacco Officer or other person who vexatiously and unnecessarily delays forwarding to a Magistrate any person arrested under this Act and not released by him on bail shall on conviction be punishable with fine which may extend to fifty rupees.

Confiscation.

20. Whenever an offence under this Act has been committed, all tobacco in respect of which the offence has been committed and every box, receptacle, package or covering in which such tobacco is contained shall be liable to confiscation.

Procedure in confiscation.

21. (*1*) When in any case tried by a Magistrate the Magistrate decides that anything is liable to confiscation under the foregoing section, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner option to pay such fine as the Magistrate deems fit in lieu of confiscation.

(*2*) When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

Compounding offences

22. (*1*) The Commissioner or any Collector or any other Tobacco Officer specially empowered by [2][the Provincial Government] in this behalf may accept from any person whose licence is liable to be cancelled or suspended under section 8 or who is reasonably suspected of having committed an offence under section 17 a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be, and in all

[1] These words were inserted by Bom. 2 of 1935, s. 6.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

cases whatsoever in which any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer.

(*2*) On the payment by such person of such money or value or both, as the case may be, to such officer, such person if in custody shall be set at liberty and the property seized shall be released and if criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

Cognizance of offences.

23. (*1*) No Magistrate shall take cognizance of any offence punishable under this Act,—

(*i*) except upon the complaint or report of the Commissioner, or a Collector or any other Tobacco Officer empowered in this behalf or of an Excise or Police Officer, or

(*ii*) except upon his own knowledge or suspicion.

(*2*) Except with the sanction of [1][the Provincial Government] no Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.

Protection of persons acting in good faith and limitation of suits and prosecutions.

24. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules.

(*2*) No suit shall be instituted against [2][the Crown] and no prosecution or suit shall lie against any Tobacco Officer in respect of anything done or alleged to have been done, in pursuance of this Act, unless the suit or prosecution has been instituted within four months from the date of the act complained of.

Recovery of tobacco revenue, etc.

25. The following moneys, namely :—

(*a*) all tobacco revenue,

(*b*) any loss that may accrue in consequence of the suspension or cancellation of a licence,

may be recovered from the person primarily liable to pay the same or from his surety (if any) as arrears of land revenue.

Appeals and revision.

26. (*1*) Any person aggrieved by any order under this Act may appeal—

(*a*) to the Collector, if such order was passed by a Tobacco Officer other than the Collector or Commissioner,

(*b*) to the Commissioner, if such order was passed by the Collector, and

(*c*) to [1][the Provincial Government], if such order was passed by the Commissioner except on an appeal under clause (*b*).

(*2*) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (*3*), be final.

(*3*) [1][The Provincial Government], [3][the Commissioner or the Collector] may call for and examine the record of any order or the proceedings of any [4][subordinate] Tobacco Officer for the purpose of satisfying themselves [5][or himself, as the case

[1] The words "the Provincial Government" were substituted for the word "Government" by Adaptation of Indian Laws Order in Council.

[2] The words "the Crown" were substituted for the word "Government", *ibid.*

[3] These words were inserted by Bom. 2 of 1935, s. 7 (*1*).

[4] This word was inserted, *ibid.*, s. 7 (*2*).

[5] These words were inserted, *ibid.*, s. 7 (*3*).

may be], as to the legality and propriety of any order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to [1][the [2][State] Government], [3][the Commissioner or the Collector, as the case may be,] that any order or proceedings so called for should be modified, annulled or reversed, they [4][or he] may pass such order as they [4][or he] may deem fit.

Power of the [2][State] Government to make rules.

27. (*1*) [1][The [2][State] Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) under section 5, regulating the powers and duties to be exercised and performed by Tobacco Officers and the assignment of such powers and duties ;

[5][(*aa*) under section 6, prescribing the conditions subject to which, and the authority by which, exemptions may be granted ;]

(*b*) under section 7, prescribing the manner in which the fees are to be charged, the form of and the conditions and restrictions on which, licences shall be granted ;

(*c*) under section 8, prescribing the conditions on which licences may be suspended or cancelled ;

[6][(*d*) under section 7A prescribing the rates at which, the conditions subject to which and the areas in which a tax on sales of tobacco shall be levied ;

(*e*) for the purposes of the Schedule hereto annexed, prescribing the varieties of tobacco which shall be classed as Superior and Inferior tobacco.]

(*3*) Rules made under this section shall be subject to previous publication.

(*4*) Rules made under this section shall be laid [7][before each of the [8][Houses] of the [2][State] Legislature] at the session [9][thereof] next following and shall be liable to be modified or rescinded by a resolution [10][in which both [8][Houses] concur] and such rule shall, after notification in the [11][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [1][the [2][State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [1][the [2][State] Government] may, by notification in the [11][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

Delegation of powers.

28. The powers conferred on the Commissioner under this Act may, [12][with the exception of the powers under sub-section (*3*) of section 26] subject to the general or special orders of [1][the [2][State] Government], be delegated by the Commissioner in whole or in part, to the Collectors or to any subordinate officer.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 2 of 1935, s. 7 (*4*).
[4] The words "or he" were inserted, *ibid.*, s. 7 (*5*).
[5] Clause (*aa*) was inserted by Bom. 26 of 1935, s. 3.
[6] These clauses were added by Bom. 6 of 1938, s. 5.
[7] These words were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.
[8] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.
[9] The word "thereof" was substituted for the words "of the said Council" by the Adaptation of Indian Laws Order in Council.
[10] These words were substituted for the words "of the said Council", *ibid.*
[11] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" *ibid.*
[12] These words, figures and brackets were inserted by Bom. 2 of 1935, s. 9.

[1][SCHEDULE.

(Section 7.)

Licence Fees.

	Rs.
Wholesale—	
Maximum rate	50
Retail or Hawker—	
(1) Maximum rate in any urban area which the [2][State] Government may, by notification published in the *Official Gazette*, specify—	
Superior tobacco	50
Inferior tobacco	25
(2) Fixed rate in any other area	2
Broker—fixed rate	2]

[1] This Schedule was substituted for the original by Bom. 6 of 1938, s. 6.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

BOMBAY ACT No. V OF 1933.[1]

[THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1933.]

[*17th May 1933.*]

An Act further to amend the Presidency Small Cause Courts Act, 1882, in its application to the Presidency-town of Bombay.

WHEREAS it is expedient further to amend the [2]Presidency Small Cause Courts Act, 1882, in its application to the Presidency-town of Bombay; It is hereby enacted as follows :—

XV of 1882.

1. This Act may be called the Presidency Small Cause Courts (Bombay Amendment) Act, 1933. Short title.

2. In the footnote to part E of the third schedule to the [2]Presidency Small Cause Courts Act, 1882, for the words "four annas per day" the words "such fee not exceeding twelve annas per day as may be fixed by the Registrar of the Small Cause Court" shall be substituted. Amendment of the third schedule to Act XV of 1882.

XV of 1882.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, p. 484; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVII.

[2] Central Acts.

THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.

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SCHEDULE.

BOMBAY ACT No. VI OF 1933.[1]

[THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.]

[*12th June 1933*]

Amended by Bom. 34 of 1935.
" " " 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 18 of 1939.
" " " 2 of 1945.*
" " " 24 of 1946.
" " " 60 of 1947.
" " " 4 of 1949.
" " " 45 of 1949.
" " " 8 of 1950.
" " " 17 of 1950.†
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 31 of 1950.
" " " 10 of 1951.
" " " 23 of 1951.
" " " 39 of 1951.
" " " 14 of 1952.
" " " 9 of 1953.
" " " 19 of 1953.
" " " 7 of 1954.
" " " 20 of 1954.
" " " 67 of 1954.
" " " 13 of 1955.
" " " 43 of 1955.

An Act to amend and consolidate the law relating to the constitution of Village Panchayats.

WHEREAS it is expedient to amend and consolidate the law relating to the constitution of village panchayats, with a view to fostering their growth and of increasing their utility in the further development of Local Self-Government in rural areas and in the administration of civil and criminal justice; and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and of the Governor required under section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Bombay Village Panchayats Act, 1933. Short title.

2. It extends to the whole of the Presidency of Bombay except [2][Greater Bombay]. Extent.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Pt. V, pp. 200-211 ; for Report of the Select Committee, *see ibid.*, 1933, Pt. V.. pp. 1-14 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXV, 1933, Vol. XXXVII.

[2] These words were substituted for the words " the City of Bombay " by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

*This Act was re-enacted with modifications by Bom. 60 of 1947, s. 2.

†Section 8 of Bom. 17 of 1950 reads as follows :—

" 8. *Saving.*—Nothing in this Act shall affect the right of any Councillor or member elected to fill the seats reserved for Muslims or Muhammadans, Anglo-Indians or Indian Christians to continue as a Councillor or member of a municipality, local board or village panchayat, as the case may be, during the term of the office for which he was validly elected before this Act came into force. "

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context—

[1][(*1*) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Bombay under article 342 of the Constitution of India];

[2][(*1A*)] "by-laws" means by-laws made by the district local board under section 109;

(*2*) "case" means with reference to any judicial proceedings, a criminal proceeding in respect of any offence triable by a [3][nyaya panchayat];

(*3*) "chairman" means the chairman of a [3][nyaya panchayat] appointed under [4][section 37A];

(*4*) "district local board," used with reference to any local area, means a district local board established under the Bombay Local Boards Act, 1923, for the district in which such local area is situated; Bom. VI of 1923.

[5][(*5*). "Scheduled Castes" means such castes or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Bombay under article 341 of the Constitution of India and until the notification in relation to the State of Bombay is issued under that article means Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936];

(*6*) "offence" means any act or omission made punishable by any law for the time being in force;

(*7*) "panchayat" means a panchayat established under this Act;

(*8*) "prescribed" means prescribed by rules;

(*9*) "revenue village" means any local area which is recognised as a village in the revenue accounts;

(*10*) "rules" means rules made by [6][the [7][State] Government] under section 108;

(*11*) "sarpanch" means a sarpanch elected under section 14;

(*12*) "school-board" means a school-board constituted under [8][section 4] of the Bombay Primary Education Act, [9][1947]; Bom. LXI of 1947.

(*13*) "suit" means civil suit triable by a [3][nyaya panchayat] under this Act;

(*14*) "tax" means a tax, cess, rate, or other impost leviable under this Act [10][but does not include a fee];

(*15*) the expression "the term of a panchayat" means the period for which the elected members thereof shall hold office under section 11;

(*16*) "village" means any local area declared to be a village under section 4;

(*17*) "[3][nyaya panchayat]" means a [3][nyaya panchayat] constituted under [11]* * * * section 37 for the purpose of the trial of suits and cases.

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[1] This clause was substituted for the original by Bom. 17 of 1950, s. 7(*1*) (*a*).

[2] This clause was re-numbered as clause (*1A*) by Bom. 18 of 1939, s. 2 (*ii*).

[3] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[4] The word, figures and letter "section 37A" were substituted for the words, brackets and figures "sub-section (*4*) of section 37" by Bom. 18 of 1939, s. 2 (*iii*).

[5] Clause (*5*) was substituted for the original by Bom. 17 of 1950, s. 7.

[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[7] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[8] This word and figure were substituted for the word and figure "section 3" by Bom. 45 of 1949, section 2.

[9] These figures were substituted for the figures "1923", *ibid.*

[10] These words were added by Bom. 31 of 1950, s. 2.

[11] The words, brackets and figure "sub-section (*1*) of" were deleted by Bom. 18 of 1939, s. 2 (*r*).

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF PANCHAYATS.

Declaration of Village.

[1][4. (*1*) Whenever the [2][State] Government after making such inquiry as may be prescribed is satisfied that any local area comprising a revenue village or a group of revenue villages or hamlets forming part of a revenue village has a population of not less than 2,000, it shall, by notification in the *Official Gazette*, declare such local area to be a village:

Provided that the [2][State] Government may, by notification in the *Official Gazette*, direct that any local area having a population of less than 2,000, shall be declared a village under this section.

(*2*) The [2][State] Government may after consultation with the district local board by like notification at any time—

(*a*) include within any village or exclude from any village any local area or otherwise alter the limits of any village, or

(*b*) declare that any local area shall cease to be a village.]

Establishment of panchayats.

5. In every village declared to be such under section 4, there shall be a panchayat.

Constitution of Panchayats.

[3][6. (*1*) A panchayat shall consist of [4]* * * * * such number of elected members, not being less than seven or more than [5][fifteen] in number, as the Collector [6]* * * * * may determine.

In any such panchayat such number of seats shall be reserved for the representatives of women, [7][Scheduled Castes and Scheduled Tribes] as may be prescribed by the [2][State] Government under clause (*b*) of sub-section (*1*) of section 108:

Provided that no such seat shall be reserved for the representatives of [7][Scheduled Castes and Scheduled Tribes] in any panchayat unless the [2][State] Government is of the opinion that the reservation of such seats is necessary having regard to the population of such [8][Castes and Tribes] in the village.

[9][(*1A*) Notwithstanding anything contained in sub-section (*1*), the reservation of seats for women, the Scheduled Castes and the Scheduled Tribes prescribed under clause (*b*) of sub-section (*1*) of section 108 shall cease to have effect on the expiration of the period of ten years from the commencement of the Constitution of India:

Provided that nothing in this section shall render any person elected to any of such reserved seats ineligible to continue as a member during the term of the office for which he or she was validly elected, by reason only of the fact that the reservation of seats has so ceased to have effect.]

(*2*) Where the Collector [6]* * * * * determines that the number of elected members of a panchayat shall exceed seven failure to elect more than seven such members shall not affect the constitution of a panchayat.

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[1] Section 4 was substituted for the original by Bom. 18 of 1939, s. 3.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] Section 6 was substituted for the original by Bom. 18 of 1939, s. 4.

[4] Clauses (*i*) and (*ii*) and the figure (*iii*) of clause "(*iii*)" which were inserted by Bom. 2 of 1945, s. 2(*i*), were deleted by Bom. 60 of 1947, s. 2.

[5] This word was substituted for the word "eleven" by Bom. 60 of 1947, s. 4(*a*).

[6] The words "after consultation with the district local board were deleted by Bom. 45 of 1949, s. 3.

[7] These words were substituted for the words "Muhammadans, Harijans or backward tribes" by Bom. 17 of 1950, s. 7.

[8] These words were substituted for the words "community, class or tribe" by Bom. 17 of 1950, s. 7.

[9] This sub-section was inserted, *ibid.*

(*3*) If for any reason the election does not result in the return of the required number of qualified persons willing to take office, the [1][standing committee of the district local board] shall, within [2][eight] weeks from the date on which the names of elected members are published [3][in the prescribed manner by the Collector], appoint the required number of persons, being persons who would have been qualified to be elected. If the [1][standing committee of the district local board] fails to make all or any of such appointments, within the time specified, the Collector shall make such appointments; and the persons so appointed shall be deemed to have been duly elected under sub-section (*1*).

Election.

7. (*1*) The election of [4]* members to a panchayat shall be held on such date as the Collector may appoint in this behalf.

(*2*) [5][Every person who has attained the age of 21 years on the 1st day of January of the year in which the voters' list is prepared and who ordinarily resides in the village or owns in the village a house assessed to house-tax, or land assessed to cess under section 93 of the Bombay Local Boards Act, 1923, shall be entitled to vote at the election.] Bom. VI of 1923.

Such election shall be conducted in the prescribed manner. [6]* * *

(*3*) The Collector shall, after such enquiry as he considers necessary, decide in ny case of dispute or doubt, who is qualified to vote at such election.

Disqualifications.

8. No person may be [7]* a member of a panchayat or continue as such who—

(*a*) is under 21 years of age, or

(*b*) does not ordinarily reside in the village, or

[8][(*c*) has been convicted by a Court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years or such less period as the State Government may allow in any particular case, has elapsed since his release, or]

(*d*) has been adjudged by a competent court to be of unsound mind, or

(*e*) has been adjudicated an insolvent and has not obtained his discharge, or

(*f*) has been removed from office under section 21 and five years have not elapsed from the date of such removal, unless he shall have, by an order which the district local board after the expiry of one year from the date of such removal is hereby empowered to make, been relieved from the disqualification arising on account of such removal from office, or

(*g*) holds any salaried office or place of profit in the gift or disposal of the panchayat, while holding such office or place, or

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[1] These words were substituted for the words "district local board", by Bom. 60 of 1947, s. 4 (*b*).
[2] This word was substituted for the word "four" by Bom. 31 of 1950, s. 3.
[3] These words were substituted for the words and figures "in the in the *Official Gazette* under section 7"., by Bom. 2 of 1945, s. 2(*3*), read with Bom. 60 of 1947, s. 2.
[4] The ward "elected" was deleted by Bom. 18 of 1939, s. 5(*i*).
[5] This portion was substituted for the words and figures beginning with the words "All adult persons" and ending with words "at the election" by Bom. 9 of 1953, s. 2.
[6] The words "and the names of members elected shall be published by the Collector in the *Official Gazette*" were deleted by Bom. 2 of 1935, s. 3, read with Bom. 60 of 1947, s. 2.
[7] The words "elected or nominated" were deleted by Bom. 18 of 1939, s. 6(*i*)
[8] Clause (*c*) was substituted for the original by Bom. 7 of 1954, s. 2.

[1][(*h*) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat, or in any contract or employment with, or under, or by, or on behalf of the panchayat, or]

[2][(*i*) fails to pay any tax or fee due to the panchayat within three months from the date on or before which the amount of such tax or fee is required to be paid in the bill presented to the person under sub-section (*1*) of section 91, or

(*j*) is a servant of the [3][Government] or a servant of any local authority ;]

[4]* * * * * * *

Explanation [5][*1*].—A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company or a co-operative society registered under the [6]Co-operative Societies Act, 1912, or the Bombay Co-operative Societies Act, 1925, be held to be interested in any contract entered into between the company or co-operative society and the panchayat.

II of 1912. Bom. VII of 1925.

[7][*Explanation 2.*—For the purposes of clause (*j*) of this section, an officiating revenue or [8][police patel or a revenue or police patel who is an officiator under the Bombay Hereditary Offices Act, shall be deemed to be a servant of the [3][Government] but] an inferior village servant shall not be deemed to be a servant of the [3][Government].

Bom. III of 1874.

9. (*1*) If the Collector, after such enquiry as he considers necessary, is satisfied that any member has been elected in contravention of the provisions of section 8, or that any corrupt practice or irregularity has been committed in connection with such election [9][or that any error has been committed by any officer charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 108 and that such illegality, corrupt practice, irregularity or error] has materially affected the result of the election, the Collector may [10][subject to the provisions of sub-section (*1A*)] declare the election of such member to be invalid, and such declaration shall be final:

[11][Determination of validity of elections by Collector.]

Provided that when the Collector is satisfied that a corrupt practice has been committed by a member, the Collector shall, whether such corrupt practice has or has not materially affected the result of the election, declare the election of such member to be invalid and such declaration shall be final.

[12][*Explanation.*—The expression "error" in this sub-section shall include any breach of or any omission to carry out, or any non-compliance with the provisions of the rules made under clause (*c*) of sub-section (*1*) of section 108.]

[13][(*1A*) If in any case to which the proviso to sub-section (*1*) does not apply, the validity of an election is in dispute between two or more candidates, the Collector shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected:

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[1] This clause was substituted for the original, by Bom. 10 of 1951, s. 2.
[2] Clauses (*i*) and (*j*) were inserted by Bom. 18 of 1939, s. 6(*iii*).
[3] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[4] The proviso was deleted, by Bom. 18 of 1939, s. 6(*iv*).
[5] This Explanation was numbered as Explanation 1 by Bom. 2 of 1945, s. 4, read with Bom. 60 of 1947, s. 2.
[6] *See* Central Acts.
[7] This Explanation was inserted by Bom. 2 of 1945, read with Bom. 60 of 1947, s. 2.
[8] These words were substituted for the words "police patel or" by Bom. 60 of 1947, s. 2(*ii*).
[9] These words were substituted for the original by Bom. 10 of 1951, s. 3.
[10] This portion was inserted by Bom. 31 of 1959, s. 4.
[11] This marginal note was substituted for the orginal, *ibid.*
[12] This Explanation was inserted by Bom. 10 of 1951, s. 3.
[13] Sub-section (*1A*) was inserted by Bom. 31 of 1950, s. 4(*2*).

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Collector finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it :

Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Collector in such manner as he may determine.]

(*2*) A person shall be deemed to have committed a corrupt practice—

(*a*) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(*b*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

Explanation 1.—A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 2.—"A promise of individual profit"—

(*i*) does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but

(*ii*) subject thereto includes a promise for the benefit of the person himself or any person in whom he is interested.

Declaration if disqualification is incurred.

[1][**9A.** If at any time the Collector after such inquiry as he considers necessary and after giving an opportunity to the member concerned to be heard is satisfied that—

(*a*) a member appointed under sub-section (*3*) of section 6 was subject to any of the disqualifications mentioned in section 8 at the time of his appointment, or

(*b*) any member whether elected or appointed has incurred any of the disqualifications mentioned in section 8 after his election or appointment, as the case may be,

the Collector shall declare the appointment of such member invalid or that such member shall not continue to be the member of the panchayat, as the case may be. Such declaration shall be final.]

Fresh election or appointment if election or appointment is invalid.

10. If the Collector declares the election [2][or appointment of any member invalid or that any member shall not continue to be the member of a panchayat, under section 9 or 9A, as the case may be, a fresh election or appointment] for the vacancy so caused shall be held in accordance with the provisions of this Act.

Prohibition of canvassing in or near polling stations.

[3][**10A.** (*1*) No person shall, on the date or dates on which a poll is taken in any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely :—

(*a*) canvassing for votes; or

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[1] Section 9A was inserted by Bom. 18 of 1939, s. 7.

[2] These words, figures and letter were substituted for the words and figures "of any member invalid, under section 9, a fresh election", *ibid.*, s. 8.

[3] Sections 10A by to 10I were inserted by Bom. 7 of 1954, s. 3.

(*b*) soliciting the vote of any voter; or

(*c*) persuading any voter not to vote at the election; or

(*d*) exhibiting any notice or sign (other than an official notice) relating to the election.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*3*) An offence punishable under this section shall be cognizable

Penalty for disorderly conduct in or near polling station.

10B. (*1*) No person shall, on the date or dates on which a poll is taken at any polling station,—

(*a*) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or

(*b*) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(*2*) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*3*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(*4*) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (*1*), and may seize any apparatus used for such contravention.

Penalty for misconduct at polling station.

10C. (*1*) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorized in this behalf by such presiding officer.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(*3*) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*4*) An offence punishable under sub-section (*3*) shall be cognizable.

Maintenance of secrecy of voting.

10D. (*1*) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

Officers, etc. at elections not to act for Candidates or influence voting.

10E. (*1*) No person who is a returning officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(*2*) No such person as aforesaid, and no member of a police force, shall endeavour—

(*a*) to persuade any person to give his vote at an election, or

(*b*) to dissuade any person from giving his vote at an election, or

(*c*) to influence the voting of any person at an election in any manner.

(*3*) Any person who contravenes the provisions of sub-section (*1*) or sub-section (*2*) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

Breaches of official duty in connection with elections.

10F. (*1*) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(*2*) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(*3*) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of an electoral roll, the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression " official duty " shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

Removal of ballot papers from polling stations to be an offence.

10G. (*1*) Any person who at any election fraudulently takes, or attempts to take a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(*2*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (*1*), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(*3*) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(*4*) An offence punishable under sub-section (*1*) shall be cognizable.

Other offences and penalties therefor.

10H. (*1*) A person shall be guilty of an offence if at any election he—

(*a*) fraudulently defaces or fraudulently destroys any nomination paper; or

(*b*) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(*c*) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(*d*) without due authority supplies any ballot paper to any person; or

(*e*) fraudulently puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or

(*f*) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(*g*) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(*2*) Any person guilty of an offence under this section shall,—

(*a*) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;

(*b*) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(*3*) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(*4*) An offence punishable under clause (*b*) of sub-section (*2*) shall be cognizable.

Prosecution in certain offences.

10I. No Court shall take cognizance of an offence punishable under section 10E or under section 10F or under clause (*a*) of sub-section (*2*) of section 10H unless there is a complaint made by an order of or under authority from the Collector.]

Term of office of members.

11. (*1*) The * [1]members of a panchayat shall, save as otherwise provided in this Act, hold office for a term of [2][four] years.

(*2*) The Collector may, by order in writing, for reasons recorded therein, extend the said term for a period not exceeding [3][in the aggregate five years]. Any such order shall be notified in such manner as the Collector may approve.

Commencement of term of office.

12. [4][(*1*) The term of office of the members elected at a general election or appointed under sub-section (*3*) of section 6 shall be deemed to commence on the date of the first meeting of the panchayat. The first meeting of the panchayat shall be held on a day fixed by the president of the district local board within four

[1] The word "elected" was deleted by Bom. 18 of 1939, s. 9.
[2] This word was substituted for the word "three" by Bom. 7 of 1954, s. 4.
[3] These words were substituted for the words, "one year" by Bom. 4 of 1949, s. 2.
[4] Sub-section (*1*) was substituted for the original by Bom. 18 of 1939, s. 10 (*1*).

weeks from the date on which the names of elected members are published under section [1][6]. If the president fails to fix such date within the time so specified the Collector shall fix such date.]

(*2*) The term of office of the outgoing members shall be deemed to extend to and expire with the day before such meeting.

[2]* * * * * * *

[2]* * * * * * *

Resignation of members.

13. Any [3]*member may resign his office by giving notice in writing to that effect to the sarpanch and such resignation shall take effect from the date of its receipt by the sarpanch.

Election of sarpanch and deputy sarpanch.

14. [4]*Every panchayat shall be presided over by a sarpanch who shall be elected by the members from among their own number. The panchayat shall also elect one of its members to be deputy sarpanch.

[4]* * * * * * *

Term of office of sarpanch and deputy sarpanch.

[5][**15.** Save as otherwise provided in this Act, a sarpanch and a deputy sarpanch shall hold office for the term of a panchayat.]

Sarpanch to carry on current duties until his successor is appointed.

16. After the expiry of his term of office, the sarpanch shall continue to carry on the current duties of his office until such time as a new sarpanch shall have been elected and shall have taken over charge.

Election of sarpanch on establishment of panchayat, [7][and disputes as to election of sarpanch or deputy sarpanch].

17. (*1*) On the establishment of a panchayat for the first time under this Act, or on its reconstitution or establishment under section 102 or 103, a meeting shall be called [6][on the date fixed under sub-section (*1*) of section 12] by the president of the district local board, who shall himself preside or appoint a person who is not a member of the panchayat to preside over the meeting. The president of the district local board or the person so appointed shall preside at such meeting but shall have no right to vote and the meeting shall then proceed to elect the sarpanch. In the case of an equality of votes the result of the election of the sarpanch shall be decided by lot to be drawn by the person presiding at the meeting in such manner as he may determine.

(*2*) On the expiry of the term of a panchayat, [8]* * * the sarpanch shall convene [9][on the date fixed under sub-section (*1*) of section 12] a meeting of the panchayat for the election of a new sarpanch. He shall preside at such meeting, but shall not vote thereat unless he is a member of the panchayat at that time. In the case of an quality of votes the result of the election shall be decided by lot to be drawn by the presiding sarpanch in such manner as he may determine:

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[1] This figure was substituted for the figure "7" by Bom. 60 of 1947, s. 5.
[2] Sub-sections (*3*) and (*4*) were deleted by Bom. 18 of 1939, s. 10(*2*)
[3] The words "elected or nominated" were deleted, *ibid*, s. 11.
[4] The brackets and figure "(*1*)" and sub-section (*2*) were deleted, *ibid*, s. 12.
[5] Section 15 was substituted for the original, *ibid*, s. 13.
[6] These words, brackets and figures were inserted, *ibid*, s. 14 (*i*).
[7] These words were substituted for the word "etc." by Bom. 7 of 1954, s. 5 (*2*).
[8] The words and figures "or on the expiry of the period of one year for which a sarpanch ordinarily holds office as provided in section 15" were deleted, by Bom. 18 of 1939, s. 14 (*ii*) (*a*).
[9] These words, brackets and figures were inserted, *ibid*, s. 14 (*ii*) (*b*).

[1][Provided that when no meeting for the election of a sarpanch has been called by the retiring sarpanch on the date fixed under sub-section (*1*) of section 12 or if a meeting called by him for this purpose on the aforesaid date has not been attended by him, the president of the district local board shall proceed to convene a meeting of the panchayat in the manner described in sub-section (*1*) and a new sarpanch shall be elected accordingly.

If the president of the district local board fails to convene such meeting within a period of 15 days from the date fixed under sub-section (*1*) of section 12, the Collector himself shall convene such meeting. The president of the district local board or the Collector, as the case may be, shall nominate one of the members to preside at the meeting so convened. If the person so nominated fails to preside at the meeting the members present shall elect one of them to preside.]

[2][(*3*) In the event of a dispute arising as to the validity of the election of a sarpanch under sub-section (*1*) or sub-section (*2*), [3][or of the election of a deputy sarpanch], the dispute shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any court in respect of any such decision.]

Resignation by sarpanch or deputy sarpanch.

18. The deputy sarpanch may resign his office by giving notice in writing to the sarpanch.

The sarpanch may resign his office by giving notice in writing to the president of the district local board.

Such resignations shall take effect from the date of their acceptance.

Time and place of sitting of panchayat and procedure at meetings.

19. The time and place of sitting and the procedure at a meeting of the panchayat shall be in accordance with by-laws.

Executive of panchayat.

20. The executive power for the purpose of carrying out the provisions of this Act and the resolutions passed by a panchayat vests in the sarpanch who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the sarpanch, the powers and duties of the sarpanch shall, save as may be otherwise prescribed by by-laws be exercised and performed by the deputy sarpanch.

Removal from office.

21. The district local board may, after giving due notice to the panchayat and after such enquiry as it thinks fit, remove from office with the previous sanction of the Collector any member or any sarpanch or deputy sarpanch who [4][has been guilty of misconduct, or neglect of or incapacity to perform his duty] or is persistently remiss in the discharge of his duties. A sarpanch or deputy sarpanch so removed may, at the discretion of the district local board, and subject to the like sanction also be removed from the panchayat. [5]* * *

[6]* * * * * *

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[1] This proviso was substituted for the original by Bom. 18 of 1939, s. 14 (*ii*).
[2] This sub-section was added by Bom. 60 of 1947, s. 6.
[3] These words were inserted by Bom. 7 of 1954, s. 5 (*1*).
[4] These words were substituted for the words " in its opinion is unfit to be member or sarpanch or deputy sarpanch as the case may be " by Bom. 18 of 1939, s. 15 (*i*).
[5] The words " unless he is an *ex-officio* member of the panchayat " were deleted, *ibid*., s. 15 (*ii*).
[6] The words " The panchayat may, with the previous sanction of the president of the district local board, and after due notice and inquiry remove the secretary of a panchayat from office for similar reasons " were deleted, *ibid*., s. 15 (*iii*).

Leave of absence.

22. (*1*) Any [1]*member of a panchayat who, during his term of office,—

(*a*) is absent for more than four consecutive months from the village unless leave not exceeding six months, so to absent himself, has been granted by the panchayat; or

(*b*) absents himself for six consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall become vacant.

(*2*) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the Collector whose decision shall be final.

Eligibility of certain members for re-election.

[2][**22A.** A member of a panchayat whose appointment has been declared invalid under section 9A or whose office has become vacant under section 22 shall, if his disqualification or disability has ceased, be eligible for re-election.]

Filling up of vacancies.

23. (*1*) Any vacancy of which notice shall have been given to the Collector in the prescribed manner due to the disablement, death, resignation, disqualification absence without leave or removal of a sarpanch or a deputy sarpanch, or [3][a] member, shall be filled, by the election of a sarpanch or deputy sarpanch or [4]* * * * * a member, who shall hold office so long only as the sarpanch, deputy sarpanch or member, in whose place he has been elected, [5]* * * would have held office if the vacancy had not occurred:

[6][Provided that if no member is so elected within four weeks from the date on which notice of the vacancy is given to the Collector, the standing committee of the district local board, shall, within the next [7][eight] weeks, appoint a person who would have been qualified to be elected. If the standing committee of the district local board fails to make any such appointment within the time specified, the Collector shall make such appointment and the person so appointed shall be deemed to have been duly elected under this sub-section.]

[8][Provided further that notwithstanding anything contained in section 6, if the vacancy be of an elected member and occurs within four months preceding the date on which the term of office of the members of the panchayat expires under section 11, the vacancy shall not be filled.]

(*2*) The meeting for the election of a sarpanch under sub-section (*1*) shall be convened by the president of the district local board in the manner described in sub-section (*1*) of section 17.

Vacancy not to affect proceedings of panchayat.

24. During any vacancy in the panchayat, the continuing members may act as if no vacancy had occurred.

Temporary provision pending establishment of panchayats under this Act.

25. Notwithstanding anything contained in this Act, the village fund shall, until such date as [9][the [10][State] Government] may notify in the [11][*Official Gazette*], be administered, so far as may be, under the provisions of this Act by the panchayats constituted under the Bombay Village Panchayats Act, 1920, which panchayats shall be deemed to have been established under this Act. Bom. IX of 1920.

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[1] The words " elected or nominated " were deleted by Bom. 18 of 1939, s. 16.

[2] Section 22-A was inserted by Bom. 14 of 1952, s. 2.

[3] The letter " a " was substituted for the words " an elected or nominated " by Bom. 18 of 1939, s. 17 (*i*).

[4] The words " the election or nomination of " were deleted, *ibid.*, s. 17 (*ii*).

[5] The words " or nominated " were deleted, *ibid.*, s. 17 (*iii*).

[6] This proviso was added by Bom. 60 of 1947, s. 7.

[7] This word was substituted for the word " four " by Bom. 31 of 1950, s. 5.

[8] This further proviso was added by Bom. 4 of 1949, s. 3.

[9] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[10] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[11] The words " *Official Gazette*" were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

CHAPTER III.

ADMINISTRATIVE POWERS AND DUTIES.

Administrative powers and duties of panchayats.

26. (*1*) It shall be the duty of a panchayat, so far as the village funds at its disposal will allow subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :—

(*a*) the supply of water for domestic use ;

(*b*) the cleansing of the public roads, drains, bunds, tanks and wells (other than tanks and wells used for irrigation) and other public places or works ;

[1][(*ba*) the removing of obstructions and projections in public streets or places and in sites not being private property, which are open to the enjoyment of the public, whether such sites are vested in the panchayat or belong to Government ;]

(*c*) the construction, maintenance and repair of public roads, drains, bunds and bridges :

Provided that, if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of such authority ;

[2][(*d*) sanitation, conservancy, the prevention and abatement of nuisances ; and the disposal of carcasses of dead animals ;]

(*e*) the preservation and improvement of the public health ;

(*f*) the maintenance and regulation of the use of public buildings, grazing lands, forest lands (including lands assigned under section 28 of the [3]Indian Forest Act, 1927), tanks and wells (other than tanks and wells used for irrigation), vesting in or under the control of the panchayat ;

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(*g*) the lighting of the village ;

(*h*) control of fairs, bazars, slaughter-houses and cart-stands ; and

(*i*) provision, [4][maintenance and regulation] of burning and burial grounds.

[5]* * * * * *

[6][(*2*)] A panchayat may, with the previous sanction of the district local board, also make provision for carrying out outside the village any work of the nature specified in [7][sub-section (*1*)].

Discretionary powers and duties of panchayats.

[8][**26A.** (*1*) It shall be competent to a panchayat, so far as the village fund at its disposal will allow and subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :—

(*a*) crop experiments ;

(*b*) construction and maintenance of slaughter-houses ;

(*c*) relief of the destitute and the sick ;

(*d*) improvement of agriculture ;

(*e*) co-operative farming ;

(*f*) improvement of cattle and their breeding and the general care of the live-stock ;

(*g*) establishment of granaries ;

(*h*) village libraries and reading-rooms ;

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[1] Clause (*ba*) was inserted by Bom. 31 of 1950, s. 6.
[2] Clause (*d*) was substituted for the original by Bom. 7 of 1954, s. 6.
[3] *See* Central Acts.
[4] These words were substituted for the words " and maintenance " by Bom. 60 of 1947, s. 8.
[5] The original sub-section (*2*) was deleted, *ibid.*
[6] Sub-section (*3*) was renumbered as sub-section (*2*), *ibid.*
[7] This was substituted for " sub-sections (*1*) and (*2*) ", *ibid.*
[8] This section was inserted, *ibid.*, s. 9.

(*i*) planting of trees along roads in market places and other public places and their maintenance and preservation ;

(*j*) lay-out and maintenance of play-grounds for village children and of public gardens ;

(*k*) promotion, improvement and encouragement of cottage industries ;

(*l*) destruction of stray and ownerless dogs ;

(*m*) construction and maintenance of dharamshalas ;

(*n*) management and control of ghats which are not managed by any other authority ;

(*o*) assistance to the residents when any natural calamity occurs ;

(*p*) disposal of unclaimed corpses [1]* * * and unclaimed cattle ;

(*q*) construction and maintenance of public latrines ;

(*r*) establishment and maintenance of markets ;

(*s*) watch and ward of the village and the crops therein :

Provided that the cost of watch and ward under paragraph (*s*) shall be levied and recovered by the panchayat from such persons in the village and in such manner as may be prescribed ;

(*t*) construction and maintenance of houses for the conservancy staff of the panchayat.

(*2*) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village.]

[2][(*3*) A panchayat may by a resolution passed at its meeting and supported by two-thirds of the whole number of its members make provision for any public reception, ceremony, entertainment or exhibition within the village :

Provided that the panchayat shall not incur expenditure exceeding Rs. 25 on any such public reception, ceremony, entertainment or exhibition, except with the previous sanction of the Collector.]

Powers of district local board to transfer maintenance of institutions and execution of other works.

27. The district local board may, at any time, with the consent of the panchayat, transfer to such panchayat the management of any institution or the execution of any work not provided for in section 26, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution of such work :

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the district local board.

Other duties.

28. (*1*) The panchayat shall,—

[3]* * * * * *

(*ii*) subject to by-laws to be made by the district local board in this behalf,—

(*a*) supervise the labour employed by local boards on works within the village ;

(*b*) supervise repairs to dharamshalas ;

(*c*) manage and maintain cattle pounds ; and

(*d*) execute such works as are entrusted to it by the district local board ; and

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[1] The words " and carcasses " were deleted by Bom. 7 of 1954, s. 7.

[2] Sub-section (*3*) was added by Bom. 31 of 1950, s. 7.

[3] Clause (*i*) was deleted by Bom. 45 of 1949, section 4 (*a*).

(*iii*) subject to such conditions as [1][the [2][State] Government] may impose and with the consent of the panchayat concerned, perform such other administrative duties including the distribution of irrigation water as may be assigned to it by [1][the [2][State] Government] by notification in the [3][*Official Gazette*], after consultation with the district local board.

[4]* * * * * * *

(*3*) A panchayat shall not be bound [5]* * * * to perform the duties specified in clause (*ii*) of sub-section (*1*) unless sufficient funds have been placed at the disposal of the panchayat by the district local board.

[6][28A. (*1*) A panchayat may, from time to time, concur with any other panchayat or with any municipality, district local board or cantonment authority or committee appointed for a notified area or with more than one such panchayat, municipality, district local board, authority or committee— Joint Committees of two or more local bodies.

(*a*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee ;

(*b*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies ; and

(*c*) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(*2*) A panchayat may from time to time enter, subject to the sanction of the [2][State] Government, into an agreement with any other panchayat, or with any municipality, district local board, cantonment authority or committee appointed for a notified area or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(*3*) Where a panchayat has requested the concurrence of any other local authority under the provisions of sub-section (*1*) or (*2*) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid and such other local authority shall comply with such orders.

(*4*) If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the [2][State] Government or of such officer as it appoints in this behalf shall be final :

[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.
[4] Sub-section (*2*) was deleted by Bom. 45 of 1949, s. 4 (*b*).
[5] The words beginning with " to carry out " and ending with " as the case may be, or " were deleted, *ibid.*, s. 4 (*c*).
[6] Section 28A was inserted by Bom. 4 of 1949, s. 4.

Provided that, where one of the local bodies is a cantonment authority, the decision of the [1][State] Government, or of the officer, shall be subject to the concurrence of the Central Government.]

Government may vest certain lands in panchayat.

[2][**28B.** For the purposes of this Chapter, the [1][State] Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads and streets, wells, river-beds, tanks, trees or any other property in the village vesting in the [3][Government].]

Obstructions and encroachments upon public streets and open sites.

[4][**28C.** (*1*) Whoever within the limits of the village,

(*a*) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public street or place or in or over or upon any open drain, gutter, sewer or acqueduct in such street or place shall, on conviction, be punished with fine which may extend to twenty rupees and with further fine which may extend to one rupee for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The panchayat shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not, provided that if the site be vested in Government the permission of the Collector or any officer authorised by him in this behalf shall have first been obtained, the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(*3*) Whoever, not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property shall, on conviction, be punished with fine which may extend to forty rupees, and, in the case of an encroachment, with further fine which may extend to two rupees for every day on which the encroachment continues after the date of first conviction.

(*4*) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and sites for not more than four days, and in such manner as not to inconvenience the public or any individual.]

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[1] This word was substituted fo the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This section was inserted by Bom. 60 of 1947, s. 10 and was renumbered as 28B by Bom. 4 of 1949, s. 4.

[3] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[4] Section 28C was inserted by Bom. 31 of 1950, s. 8.

CHAPTER IV.

INCORPORATION OF VILLAGE PANCHAYAT; ITS PROPERTY AND FUND.

Incorporation of village panchayat.

29. Every panchayat shall be a body corporate by the name of "the village panchayat of ," and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immovable whether within or without the limits of the village over which it has authority, to lease, sell or otherwise transfer moveable or immovable property which may become vested in or be acquired by it, and to contract and do all other things necessary for the purposes of this Act:

Provided that no lease of immovable property [other than property referred to in sub-section (*1*) of section 30] for a term exceeding [1][three] years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Collector.

Property of panchayat.

30. (*1*) It shall be competent to a local board from time to time to direct that any property vesting in such local board shall vest in panchayat [2][and on such direction being issued, the property shall vest in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908]:

V of 1882, XVI of 1908.

[3][Provided that no lease, sale or other transfer of any such immovable property by the panchayat shall be valid without the previous sanction of the Commissioner and of such local board.]

(*2*) Every work constructed by a panchayat out of the village fund shall vest in such panchayat.

Village fund.

31. (*1*) There shall be in each village a fund, which shall be called the village fund.

(*2*) The following shall form part of, or be paid into, the village fund, namely:—

(*a*) the amount which may be allotted to the village fund by [4][the [5][State] Government] under the provisions of section 191 of the Bombay District Municipal Act, 1901;

Bom. III of 1901.

(*b*) the proceeds of any tax or fee imposed under section 89;

Bom. VI of 1923.

[6][(*bb*) the proceeds of a tax on professions, trades, callings and employments assigned to the village panchayat under clause (*b*) of sub-section (*1*) of section 102C of the Bombay Local Boards Act, 1923;]

(*c*) all [7]* * * sums ordered to be paid as compensation realised under sections 45 and 46;

(*d*) all other sums ordered by a court to be placed to the credit of the village fund;

(*e*) the sale proceeds, except in so far as any person entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the village servants;

(*f*) sums contributed to the village fund by [4][the [5][State] Government] or a district local board;

(*g*) all sums received by way of loans from [4][the [5][State] Government] or the district local board or by way of gift;

[8]* * * * * * *

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[1] The word "three" was substituted for the word "seven" by Bom. 18 of 1939, s. 18.
[2] This portion was inserted by Bom. 60 of 1947, s. 11.
[3] This proviso was substituted for the original, *ibid.*
[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] This clause was inserted by Bom. 43 of 1955, s. 9. This shall take effect only on such date as the State Government may by notification in the *Official Gazette* appoint in this behalf.
[7] The words "fines and" were omitted by the Adaptation of Indian Laws Order in Council.
[8] Clause (*h*) was omitted, *ibid.*

(*i*) the income or proceeds of any property vesting in the panchayat; and

(*j*) fees levied for the institution of suits and cases under section 59.

Application of village fund.

32. All property vested in the panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

CHAPTER V.

ESTABLISHMENT AND ACCOUNTS.

Secretary of panchayat.

[1][**33.** [2][(*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat:

Provided that any two or more panchayats, if the villages for which they are established are situate within a distance of three miles from each of such villages and each such panchayat has an annual income not exceeding Rs. 1,500, may appoint one and the same person as the Secretary common to each of them. Such panchayats shall pay the salary and allowances of the Secretary in such proportion as the State Government may from time to time determine:

Provided further that if there are more than one Panchayat established for villages within a distance of three miles from each of such villages, such panchayats not exceeding three in number may with the sanction of the State Government appoint one and the same person as the Secretary common to each of them, notwithstanding the fact that one of the said panchayats has an annual income exceeding Rs. 1,509.

(*1A*) The qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) of such Secretary shall be such as may be prescribed.]

[3]* * * * * * *

Bom. LX of 1947.

(*3*) Every Secretary of a panchayat in office on the date of the coming into operation of the Bombay Village Panchayats (Amendment) Act, 1947, shall be deemed to have been appointed under sub-section (*1*).]

Schedule of servants.

34. Subject to the provisions of section 98, a panchayat shall determine and submit for information to the district local board a schedule of the number and salaries of its servants required for carrying out the duties imposed upon the panchayat by or under this Act.

Appointment of servants.

35. (*1*) The sarpanch shall appoint the servants of the panchayat and pay their salaries from the village fund at his disposal. He may also, in cases of emergency, engage such temporary servants as he may deem necessary. The sarpanch may from time to time, by a written order, fine, suspend or dismiss any servant appointed by him.

(*2*) An appeal shall lie against an order passed under sub-section (*1*) to the panchayat.

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[1] Section 33 was substituted for the original by Bom. 60 of 1947, s. 12.
[2] These sub-sections were substituted for the original sub-section (*1*), by Bom. 10 of 1951, s. 4.
[3] Sub-section 2 was deleted by Bom. 13 of 1955, s. 2.

Budget and accounts. Panchayat to convene a meeting of residents of village.

36. (*1*) A panchayat shall determine annually and shall submit to the district local board, on or before such date and in such form as may be prescribed by [1][the [2][State] Government], a statement of—

(*a*) the opening balance and estimated income of the panchayat for the following year;

(*b*) the expenditure proposed on establishment and the discharge of the duties specified in sub-section (*1*) of section 26;

(*c*) the expenditure proposed under [3][section 26A] and sub-section (*1*) of section 28.

(*2*) The district local board shall, within three months from the date of the receipt of such statement, either approve the same or direct that the proposed expenditure on any of the duties specified in sections 26 and 28 shall be increased or decreased:

Provided that the district local board shall not have power to direct that the total proposed expenditure shall exceed the estimated income of the village fund for the following year and the opening balance.

[4][(*3*) The Secretary appointed under section 33 shall keep the accounts of the panchayat in such form as may be prescribed. He shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat. The annual statements of such accounts together with the annual report as approved shall be sent to the district local board on or before such date and in such form as may be prescribed.

[4][(*4*) A panchayat shall convene in a manner and at a time prescribed a meeting of all adult residents of the village and the statements of the accounts together with a report on the administration for the preceding year and the programme of the work proposed for the year following shall be read out and explained at such meeting.]

CHAPTER VI.

CONSTITUTION AND POWERS OF [5][NYAYA PANCHAYATS].

Election of [5][nyaya panchayats].

[6][**37.** (*1*) Every panchayat shall at its first meeting elect out of its members in the manner prescribed five persons for the purpose of constituting a [5][*nyaya panchayat*].

[7][(*1A*) If any question, doubt or dispute arises as to the validity of the election of a member of a *nyaya panchayat* under sub-section (*1*), it shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any Court in respect of such question, doubt or dispute.

(*2*) The five persons so elected shall constitute a [5][*nyaya panchayat*] and the [2][State] Government shall direct that such [5][*nyaya panchayat*] may exercise all or any of the judicial powers which may be conferred on the [5][*nyaya panchayat*] under this Act: Provided that the [2][State] Government may at any time, by notification in the *Official Gazette*, withdraw all or any of the judicial powers conferred on a [5][*nyaya panchayat*] if, in the opinion of the [2][State] Government, such [5][*nyaya panchayat*] has been incompetent in the exercise of or has been guilty of the abuse of the said powers.

(*3*) Save as herein provided the term of office of the members of such [5][*nyaya panchayat*] shall be co-extensive with the term of their office as the members of the panchayat.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This was substituted for "sub-section (*2*) of section 26" by Bom. 60 of 1947, s. 13.

[4] Sub-sections (*3*) and (*4*) were substituted for the original by Bom. 18 of 1939, s. 20.

[5] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[6] Sections 37, 37A, 37B and 37C were substituted for section 37 by Bom. 18 of 1939, s. 21.

[7] This sub-section was inserted by Bom. 60 of 1947, s. 14.

(*4*) If any vacancy arises in the office of any of the members of such [1][*nyaya panchayat*], it shall be filled by election in the manner prescribed. The member so elected shall hold office so long only as the member in whose place he has been elected would have held office if the vacancy had not occurred.

(*5*) Out of the members so elected three members shall form a quorum.

(*6*) Save as provided in this Act, the Provincial Government may make rules to regulate—

(*a*) the conduct and distribution of business and practice before a [1][*nyaya panchayat*].

(*b*) the times and places at which the [1][*nyaya panchayat*] shall sit.

(*c*) any other matter which in the opinion of the Provincial Government may be necessary for the conduct of proceedings before a [1][*nyaya panchayat.*]

Chairman of [1][*nyaya panchayat.*]

[2][**37A.** Every [1][*nyaya panchayat*] shall have a Chairman. The Chairman shall be elected by the [1][*nyaya panchayat*], from amongst the members of the [1][*nyaya panchayat*] and the term of office of the Chairman of such [1][*nyaya panchayat*] shall be co-extensive with the term of the [1][*nyaya panchayat*].

Judicial Clerk of Panchayat.

[2][**37B.** The Secretary of a panchayat shall act as the judicial clerk of the [1][*nyaya panchayat*] for the purpose of recording its proceedings and decisions and doing such other duties as may be prescribed.]

Removal of a member from the [1][*nyaya panchayat*].

[2][**37C.** (*1*) The Provincial Government, if it thinks fit, may remove any member elected on the [1][*nyaya panchayat*] after giving him an opportunity of being heard and after such inquiry as the Provincial Government deems necessary, if in the opinion of the Provincial Government such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or neglects or refuses to perform or has been incapable of performing any of the duties as a member of the [1][*nyaya panchayat*].

(*2*) If any inquiry is held under sub-section (*1*), the Provincial Government may suspend such member from being on the [1][*nyaya panchayat*] for such period as it thinks fit.

(*3*) The removal or suspension of such member under sub-section (*1*) or (*2*) shall not by reason of that fact alone disqualify him from being a member of a panchayat.

(*4*) A person removed from a [*nyaya panchayat*] under sub-section (*1*) shall not be eligible for re-election on such [*nyaya panchayat*].

Saving of pending proceedings.

38. Every suit or case of the nature specified in section 39 or 41, pending in any court and cognizable by a [1][*nyaya panchayat*] empowered under section 37 and all proceedings arising from and incidental to any such suit or case shall be tried, heard and determined by such court or any other court having jurisdiction to try, hear and determine the same, as if this Act had not been passed.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These sections were substituted for section 37 by Bom. 18 of 1939, s. 21.

Suits triable by [2][*nyaya panchayat.*]

39. (*1*) Save as otherwise provided in section 40, [1][power to try all or any of the following suits may be conferred on a [2][*nyaya panchayat*] under section 37,] namely :—

(*a*) suits for money due on contracts, not affecting any interest in immoveable property ;

(*b*) suits for the recovery of moveable property or for the value of such property ;

(*c*) suits for compensation for wrongfully taking and injuring moveable property ;

where the amount or value of the claim does not exceed twenty-five rupees.

(*2*) With the written consent of both the parties, recorded in the presence of the [2][*nyaya panchayat*], suits of the nature described in sub-section (*1*), but the value of which does not exceed one hundred rupees, shall be triable by such [2][*nyaya panchayat*].

(*3*) [3][The Provincial Government] may, by notification in the [4][*Official Gazette*], direct that any [2][*nyaya panchayat*] may try any suit of the nature described in sub-section (*1*), up to such value as may be specified in the notification not exceeding one hundred rupees.

Suits not triable by [2][*nyaya panchyat.*]

40. No suit shall be brought before any [2][*nyaya panchayat*]—

(*i*) on a balance of partnership account ;

(*ii*) for a share or part of a share under any intestacy, or for a legacy or part of a legacy under a will ;

(*iii*) by or against [5][the Crown] or any local authority or an officer or servant of [6][the Crown] or a member, officer or servant of a local authority in his official capacity ;

(*iv*) by or against a minor or a person of unsound mind ; and

(*v*) on account of any dispute or matter in respect of which any suit or application would be cognizable by a revenue court.

Offences cognizable by [2][*nyaya panchayat.*]

[7][**41.** Power to take cognizance of and try all or any of the following offences may be conferred on [2][*nyaya panchayat*] under section 37, namely :— XLV of 1860.

(*a*) Under the Indian Penal Code—

	Section.
Negligently doing any act known to be likely to spread the infection of any disease dangerous to life	269
Fouling the water of a public spring or reservoir ..	277
Causing danger, obstruction or injury to any public way ..	283

[1] These words and figures were substituted for the words "the village bench shall have power to try the following suits," by Bom. 18 of 1939, s. 22.

[2] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[3] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] The words "the Crown" were substituted for the words "the Secretary of State for India in Council" *ibid.*

[6] The words "the Crown" were substituted for the word "Government", *ibid.*

[7] Section 41 was substituted for the original by Bom. 18 of 1939, s. 23.

		Section
	Voluntarily causing hurt	323
	Assault or use of criminal force otherwise than on grave and sudden provocation	352
	Assault or use of criminal force on grave and sudden provocation	358
	Theft, where the value of the property stolen does not exceed Rs. 20	379
	Mischief when the loss or damage caused does not exceed Rs. 20 in value	426
	Criminal trespass	447
	House trespass	448
	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property ..	461
	Intentional insult, with intent to provoke a breach of the peace	504
I of 1871.	(*b*) Under the Cattle-trespass Act, 1871—	
	Forcibly opposing the seizure of cattle or rescuing the same.	24
XI of 1890.	[1][(*c*) Under the Prevention of Cruelty to Animals Act, 1890—	
	Practising phooka	4
	Killing animals with unnecessary cruelty	5
	Being in possession of the skin of a goat Killed with unnecessary cruelty	5A
	Employing animals unfit for labour	6
	Baiting or inciting animals to fight	6C
	Permitting diseased animals to go at large or to die in public places	7
Bom. XXV of 1949.	[2][(*d*) Under the Bombay Prohibition Act, 1949—	
	Being drunk and incapable of taking care of himself ..	85(*1*)]
Bom. I of 1892.	(*e*) Under the Bombay District Vaccination Act, 1892—	
	Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into area ..	22
	Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years ..	23
	Not producing child	24
	Neglecting to take child to be vaccinated	25
Bom. LXI of 1947.	(*f*) Under the Bombay Primary Education Act, [3][1947]—	
	[4][Failure to cause child to attend school	35]
	Employing child liable for compulsory education ..	[3][36]
Bom. V of 1925.	(*g*) Under the Bombay Prevention of Adulteration Act, 1925—	
	Sale or manufacture of food not of the proper nature, substance or quality	4
	[5][(*h*) Under this Act,—	
	(*i*) Obstructions and encroachments upon public streets and open sites	280(*1*) and (*3*).
	(*ii*) Contravention of a by-law	109] :

[1] Clauses (*c*) to (*h*) were substituted for clause (*c*) by Bom. 60 of 1947, s. 15.
[2] This clause was substituted for the original by Bom. 39 of 1951, s. 3, Second Schedule.
[3] The figures " 1947 " and " 36 " were substituted for the figures " 1923 " and " 22 " respectively by Bom. 45 of 1949, s. 5.
[4] This entry was inserted by Bom. 67 of 1954, s. 6.
[5] This clause was substituted for the original, *ibid.*, s. 9 (2).

Provided that no offence of theft shall be cognizable by any [1][*nyaya panchayat*], unless an accused person has been either apprehended or recognised and named.

Certain persons accused of theft not to be tried by [1][*nyaya panchayat*].

42. No [1][*nyaya panchayat*] shall take cognizance of any offence of theft punishable under section 379 of the Indian Penal Code in which the accused— XLV of 1860.

(*a*) has been previously convicted of an offence punishable, under Chapter XLV or Chapter XVII of the Indian Penal Code, with imprisonment of either description for a term of three years or upwards ; XLV of 1860.

(*b*) has been previously fined for theft by any [2][*nyaya panchayat*] ;

(*c*) is a registered member of a criminal tribe under section 4 of the [3]Criminal Tribes Act, 1924 ; or VI of 1924.

(*d*) has been bound over to be of good behaviour in proceedings instituted under section 109 or, section 110 of the Code of Criminal Procedure, 1898. V of 1898.

Offences by or against public servant not cognizable by [1][*nyaya panchayat*].

43. No [1][*nyaya panchayat*] shall take cognizance of any offence specified in section 41 in which either the complainant or the accused is a public servant serving in the district in which the village for which the panchayat is established is situated :

Provided, however, that a [1][*nyaya panchayat*] shall not be debarred from taking cognizance of an offence [4][[5][punishable under section 35 or 36 of the Bombay Primary Education Act, 1947, or under] sub-section (*1*) or (*3*) of section 28C or of contravention of a by-law under sub-section (*3*) of section 109], notwithstanding that the complainant in the case is a public servant. LXI of 1947.

Conviction by a [1][*nyaya panchayat*] not previous conviction.

44. A conviction by a [1][*nyaya panchayat*] under this Act shall not be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code. XLV of 1860.

Maximum Penalties.

45. (*1*) The following are the maximum penalties which may be inflicted by a [1][*nyaya panchayat*] for the offences mentioned in section 41 :—

(*a*) Under the Indian Penal Code—

Fine not exceeding Rs. [6][20] or double the amount of the loss or damage caused up to a limit of Rs. [6][40].

(*b*) Under section 24 of the Cattle-trespass Act, 1871—

Fine not exceeding Rs. [6][10].[7]*

[8]* * * * *

* * * * *

[9][(*b1*) Under section 35 of the Bombay Primary Education Act, 1947— Bom. LXI of 1947.

Fine not exceeding Rs. 2 and in case the failure to compel the child to attend an approved school continues after the conviction, with fine of annas 8 for every day on which the failure continues or is repeated.]

[10][(*bb*)] Under section [11][36] of the Bombay Primary Education Act, [11][1947], or under the provisions of any other Act mentioned in section 41— Bom. LXI of 1947.

Fine not exceeding Rs. 20 ; [12]*]

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[1] These words were substituted for the words " village bench " or " Bench " by Bom. 60 of 1947, s. 25.

[2] These words were substituted for the word " panchayat ", *ibid.*, s. 16.

[3] The Criminal Tribes Act, 1924, has ceased to extend to the State of Bombay with effect from the 13th August 1949 (*vide* G. N., H. D., No. 9642/5, dated the 5th August 1949). *See* therefore the Bombay Habitual Offenders Restriction Act, 1947 (Bom. 51 of 1947).

[4] This portion was substituted for the words " for a breach of a by law." by Bom. 31 of 1950, s. 10.

[5] These words and figures were substituted for the words " punishable under " by Bom. 67 of 1954, s. 7.

[6] These figures were substituted for the original by Bom. 60 of 1947, s. 17.

[7] The word " and " was deleted, *ibid.*

[8] The original clause (*bb*) was deleted by Bom. 31 of 1950, s. 11.

[9] This clause was inserted by Bom. 67 of 1954, s. 8.

[10] The original clause (*bc*) was re-lettered as clause (*bb*), by Bom. 31 of 1950, s. 11.

[11] The figures " 36 " and " 1947 " were substituted for the figures " 22 " and " 1923 " respectively by Bom. 45 of 1949, s. 6.

[12] The word " and " was deleted by Bom. 31 of 1950, s. 11.

[1][(*c*) Under sub-section (*1*) of section 28C of this Act—
Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section.
(*d*) Under sub-section (*3*) of section 28C of this Act—
Fine not exceeding Rs. 40 or Rs. 2 per day for a continuing contravention as provided in that sub-section.
(*e*) Under sub-section (*3*) of section 109 of this Act—
Fine not exceeding Rs. 20 or Re. 1 per day or a continuing contravention as provided in that sub-section.]

(*2*) No sentence of imprisonment, whether substantive or in default of fine or of whipping, shall be inflicted by a [2][*nyaya panchayat*].

Power of [4][State] Government to empower particular [2][*nyaya panchayat*] to inflict enhanced penalties

46. [3][The [4][State] Government] may empower, by a notification in the [5][*Official Gazette*] a [2][*nyaya panchayat*] to inflict the following maximum penalties :
(*a*) Under the sections of the Indian Penal Code mentioned in section 41—
Fine not exceeding Rs. [6][40] or double the amount of the damage or loss caused, whichever is greater.
(*b*) Under section 24 of the [7][Cattle-trespass Act, 1871]— I of 1871.
Fine not exceeding Rs. [6][20].
[8][(*c*) under the provisions of any other Act mentioned in section 41 except the Bombay Primary Education Act, [9][1947]— Bom. LXI of 1947.
Fine not exceeding Rs. [6][50].

Compensation to complainants.

47. In inflicting any fine under section 45 or section 46, the [2][*nyaya panchayat*] may direct that the whole or any portion of the fine recovered shall be applied—
(*a*) towards defraying the expenses properly incurred in the case by the complainant, or
(*b*) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

Compensation to accused for false or frivolous case.

48. If a [2][*nyaya panchayat*] is satisfied, after enquiry, that a case brought before it is false, frivolous or vexatious, such [2][*nyaya panchayat*] may order the complainant to pay the accused such compensation, not exceeding Rs. 5, as it thinks fit.

Youthful offenders.

49. Instead of passing any sentence, a [2][*nyaya panchayat*] may discharge, after due admonition, a youthful offender who, in the opinion of such [2][*nyaya panchayat*] is, at the time of conviction of the offence, under the age of sixteen years.

Members interested not to sit on [2][*nyaya panchayat*].

50. No member of a [2][*nyaya panchayat*] who is a party to, or has any interest in, any suit or case shall sit on the [2][*nyaya panchayat*] while it is trying such suit or case.

Any dispute as to whether a member of a [2][*nyaya panchayat*] is a party to or interested in a suit or case shall, on a written application of a party to such suit

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[1] Clauses (*c*) to (*e*) were substituted for clause (*c*) by Bom. 31 of 1950, s. 11.
[2] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws order, 1950.
[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.
[6] These figures were substituted for the original by Bom. 60 of 1947, s. 18.
[7] *See* Central Acts.
[8] This clause was inserted by Bom. 60 of 1947, s. 18.
[9] These figures were substituted for the figures "1923" by Bom. 45 of 1949, s. 7.

or case, be referred to the Collector or such officer as he may authorise in this behalf for decision. The decision of the Collector or such officer shall be final.

Res judicata and pending suits and cases.

51. (*1*) No [1][*nyaya panchayat*] shall try any suit or issue in respect of any matter which is pending for decision in, or has been heard and decided by, a court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim.

(*2*) Where an accused person has been tried for any offence, no [1][*nyaya panchayat*] shall take cognizance of such offence or, on the same facts, of any other offence of which the accused might have been charged or convicted.

Suits to include whole claim.

52. Every suit instituted before a [1][*nyaya panchayat*] shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the [1][*nyaya panchayat*].

If a plaintiff [2][intentionally omits to sue in respect of or] relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Limitation for suits and cases.

53. (*1*) No suit shall be entertained by a [1][*nyaya panchayat*] after the expiration of one year from the time when the right to sue first accrued.

(*2*) No case shall be cognizable by a [1][*nyaya panchayat*] after the expiration of one month from the date on which the offence was committed.

[1][*Nyaya panchayat*] before which suits to be instituted.

54. Every suit under this Act shall be instituted before the [1][*nyaya panchayat*] of the village in which the defendant or each of the defendants, where there are more than one, resides at the time of the institution of the suit, irrespective of the place where the cause of action arose.

[1][*Nyaya panchayat*] before which cases to be instituted.

55. Every case under this Act shall be instituted before the [1][*nyaya panchayat*] of the village in which the offence was committed.

Return of complaints.

56. Any magistrate upon receiving a complaint of facts constituting an offence cognizable by a [1][*nyaya panchayat*] shall, unless reason to the contrary be shown to the satisfaction of the magistrate, return the complaint for presentation to the [1][*nyaya panchayat*] having jurisdiction to try the same.

Bar of jurisdiction of courts in suits and cases.

57. Notwithstanding anything contained in any law for the time being in force, no court, subject to the provisions of section 56, shall entertain any suit specified in section 39 or take cognizance of any offence specified in section 41, unless and until [3][the [4][District or the Sessions Court], as the case may be], has passed an order in writing under section 77 or 87.

Bom. Act VIII of 1867, sections 14, 15 and 16 not to apply to village which has [1][*nyaya panchayat*].

58. Notwithstanding anything contained in the Bombay Village Police Act, 1867, the provisions of sections 14, [5][15 and 16] of the said Act shall not apply to any village in which a [1][*nyaya panchayat*] shall have been constituted under [6]* * section 37. Bom. VIII of 1867.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These words were substituted for the words "omits to sue in respect of or intentionally" by Bom. 18 of 1939, s. 24.

[3] These words were substituted for the words "the District Judge or the Collector", *ibid*, s. 25.

[4] These words were substituted for the words "District Court or the District Magistrate "by Bom. 39 of 1951, s. 3, Second Schedule.

[5] The figures and word "15 and 16" were inserted by Bom. 18 of 1939, s. 26 (*a*).

[6] The words, figure and brackets "sub-section (*1*) of" were deleted, *ibid*, s. 26 (*b*).

[1][58A. A [2][*nyaya panchayat*] newly constituted on the expiry of the term of office of the members of another [2][*nyaya panchayat*] [3]* * * * shall hear and dispose of all suits, cases and proceedings pending before the latter at the date of the expiry of such term [4]* * * * :

Pending cases before [2][*nyaya panchayat*] when term of office has expired.

Provided that the hearing of such suits, cases and proceedings shall commence anew before the [2][*nyaya panchayat*] newly constituted, as if such suits, cases and proceedings were instituted before it].

CHAPTER VII.

Procedure of Panchayats in Suits and Cases.

59. Any person who wishes to institute a suit or case under this Act before a [2][*nyaya panchayat*] shall make an application orally or in writing to the Chairman or during his absence from the village to such other member of the [2][*nyaya panchayat*] as the Chairman may appoint in this behalf and shall at the same time pay the prescribed fees.

Suits and cases : how instituted.

[5][Provided that an Administrative Officer appointed under the Bombay Primary Education Act, 1947, or any other officer authorised by him in this behalf wishing to institute a case of the nature specified in clause (*f*) of section 41 may send such application by registered post.]

Bom. LXI of 1947.

60. The substance of the application shall be recorded without delay in the prescribed register [6][and, except where an application has been sent by registered post, the signature or thumb impression of the applicant] shall be taken on the register and the register shall be signed by the Chairman or, in his absence, by any member authorised under section 59.

Substance of application to be recorded.

61. Every suit or case instituted in accordance with the provisions of section 59 shall be brought before the [2][*nyaya panchayat*] at its next sitting and the plaintiff or complainant, as the case may be, shall, at the time of making the application, be informed of the time and place fixed for such sitting and directed to attend at that time and place.

Plaintiff or complainant to attend next sitting of [2][*nyaya panchayat*].

62. The [2][*nyaya panchayat*] after hearing the application, shall cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place :

Summons to be issued to defendant or accused.

Provided that the [2][*nyaya panchayat*] may, for reasons to be recorded, after hearing the application and examining the plaintiff or complainant, refuse to issue a summons and dismiss the suit or complaint.

63. Such summons shall ordinarily be caused to be served by the patel or village headman. Where there are two patels in a village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit and by police patel if it relates to a case :

Summons by whom served.

Provided, however, that a [2][*nyaya panchayat*] may cause the summons to be served through any other person.

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[1] Section 58A was inserted by Bom. 18 of 1939, s. 27.

[2] These words were substituted for the words " village bench " or " bench " by Bom. 60 of 1947, s. 25.

[3] The words " or a *nyaya panchayat* newly constituted on the dissolution of another *nyaya panchayat* under section 106 ", were deleted by Bom. 14 of 1952, s. 3.

[4] The words " or at the date of such dissolution " were deleted, *ibid.*

[5] This proviso was added by Bom. 67 of 1954, s. 9.

[6] This portion was substituted for the words "and the signature or thumb impression of the applicant ", *ibid.*, s. 10.

Mode of service of summons.

64. The summons shall be in duplicate, signed by the presiding member of the [1][*nyaya panchayat*] and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb-impression shall be taken in token of service. If the defendant or accused cannot be found and the [1][*nyaya panchayat*] is satisfied that he is evading service or if he refuses to take the summons, the [1][*nyaya panchayat*] may order service to be made on an adult male member of his family residing with him, or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of service outside village.

65. If a defendant or accused is, at the time of the issue of the summons, outside the village of the panchayat, the summons may be forwarded by the [1][*nyaya panchayat*] to the Collector or to any officer not below the rank of a mamlatdar, who may be authorised by the Collector in this behalf, and the Collector or such officer shall cause the summons to be served as if it were summons from his own court.

Exemption of certain persons from appearance in suits.

66. (*1*) Women who, according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance before a [1][*nyaya panchayat*] in any suit.

(*2*) Persons exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, shall also be exempt from personal appearance before a [1][*nyaya panchayat*] in any suit. V of 1908.

Issue of summons to witnesses.

67. (*1*) A [1][*nyaya panchayat*] may, if it considers the evidence of, or the production of a document by any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

(*2*) A [1][*nyaya panchayat*] may refuse to summon a witness or to enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances, would be unreasonable.

(*3*) No [1][*nyaya panchayat*] shall enforce the attendance of any person living outside the village to give evidence, or to produce a document, unless such sum of money is deposited with the [1][*nyaya panchayat*] as appears to the [1][*nyaya panchayat*] to be sufficient to defray his reasonable expenses and if in the opinion of the Collector or officer empowered under section 65, as the case may be, the attendance of any such person is not necessary for the proper adjudication of the suit or case, such Collector or officer shall return the summons to the [1][*nyaya panchayat*] with his endorsement accordingly.

(*4*) No [1][*nyaya panchayat*] shall compel any person to give evidence or to disclose any communication which such person cannot be permitted to give or compelled to disclose under the provisions of the [2]Indian Evidence Act, 1872, or under any other law for the time being in force. I of 1872.

Pleaders, etc. excluded from appearance.

68. No pleader, vakil, or mukhtyar, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any suit or case before a [1][*nyaya panchayat*] [3]* * * *:

[1] These words were substituted for the words " village bench " or " bench " by Bom. 60 of 1947, s. 25.

[2] *See* Central Acts.

[3] The words and figures " or in any inquiry under section 87 " were omitted by Bom. 18 of 1939, s. 28.

Provided that any party to any such suit or case may be permitted, on reasonable cause being shown to the satisfaction of the [1][*nyaya panchayat*] [2]* * * to employ any relation, servant, dependant, or friend who is not and who has not previously been a pleader, vakil, or mukhtyar or an advocate or attorney of a High Court, to appear either conjointly with or in lieu of such party.

When a relation, servant, dependant, or friend appears in lieu of a party, he shall be furnished by such party with a written authority defining the extent to which he is empowered to act.

Decision of suit or case on facts ascertained.

69. (*1*) It shall be the duty of a [1][*nyaya panchayat*] to ascertain the facts of a suit or case before it after holding an inquiry in accordance with the provisions of this Act and the rules.

(*2*) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a [1][*nyaya panchayat*] to hold such inquiry.

(*3*) After holding such inquiry, a [1][*nyaya panchayat*] may pass such decree or order, with or without prescribed fees subject to the provisions of this Act, as may in its opinion seem just and equitable. [3][Such decree or order shall state the finding and a brief statement of the reasons thereof.]

Decision of the [1][*nyaya panchayat*]

70. The decision of the [1][*nyaya panchayat*] shall be in accordance with the opinion of the members of the [1][*nyaya panchayat*] who are present at the sitting or of the majority of such members. If the members are equally divided, the person presiding shall have a second or casting vote.

Adjournment.

71. The [1][*nyaya panchayat*] may, from time to time, adjourn the hearing of any suit or case :

Provided that such adjournment is, in its opinion, unavoidable or necessary to a just and equitable decision of the suit or case.

Disposal of suits and cases in absence of party concerned.

72. (*1*) If the plaintiff or complainant fails to appear, after having been informed of the time and place fixed for the hearing, the [1][*nyaya panchayat*] may hear and decide the suit or case in his absence.

(*2*) The [1][*nyaya panchayat*] may hear and decide a suit or case in the absence of the defendant or the accused, if a summons has been served upon him in the manner hereinbefore prescribed, or if he has been informed of the time and place fixed for hearing :

Provided that no sentence shall be passed by a [1][*nyaya panchayat*] on any accused, unless he has appeared, either in person or by a representative, before the [1][*nyaya panchayat*] and the substance of his statement has been recorded in the prescribed register.

(*3*) If, after the service of summons upon him, an accused fails to appear, either in person or by a representative, the [1][*nyaya panchayat*] may apply to the [4][Sessions Judge] or to any officer not below the rank of a second class magistrate authorised by the [4][Sessions Judge] in this behalf, and such [4][Sessions Judge] or officer shall compel the accused to appear in person or by his representative before the [1][*nyaya panchayat*] as if he were a court trying the case.

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[1] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[2] The words "or the District Judge or Collector" were omitted by Bom. 18 of 1939, s. 28.
[3] These words were inserted, *ibid*, s. 29.
[4] These words were substituted for the words "District Magistrate" by Bom. 39 of 1951, s. 3, Second Schedule.

(*4*) Where an accused person has, under sub-section (*3*), been compelled to appear before the [1][*nyaya panchayat*] the [1][*nyaya panchayat*] shall forthwith take his statement, and thereafter his attendance at the hearing of the case shall not be compulsory.

Compromise of suits and compounding of cases.

[2][**73.** (*1*) Where it is proved to its satisfaction that a suit has been adjusted wholly or in part by oath or by any lowful agreement, compromise or satisfaction, the [1][*nyaya panchayat*] shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relates to the suit.

(*2*) A [1][*nyaya panchayat*] may permit any case to be compounded :

Provided that when a [1][*nyaya panchayat*] does not pass a decree in accordance with the agreement, compromise or satisfaction under sub-section (*1*) or does not permit a case to be compounded under sub-section (*2*), it shall record its reasons in writing.]

Death of parties.

74. When any party to a suit dies before a decree has been passed, the suit shall abate, but a fresh suit may be brought on the same cause of action, and the period during which the suit was pending shall be excluded in computing the period of limitation prescribed under section 53 for the fresh suit.

[1][*Nyaya panchayat*] not to revise or alter its decision.

75. (*1*) Except as provided in sub-section (*2*), a [1][*nyaya panchayat*] shall not have power to cancel, revise or alter any decree or order passed by it.

(*2*) On application made within one month from the date of the decree or order of a [1][*nyaya panchayat*], the [1][*nyaya panchayat*] may, for reasons to be recorded in writing, restore any suit which has been dismissed for default or in which an *ex parte* decree has been passed against the defendant.

Interest and instalments.

76. In suits for money, a [1][*nyaya panchayat*] may, in its discretion, direct payment of interest on the sum decreed, at a rate not exceedng six per cent. per annum, from the date of the decree until the date of payment and of any fees which may be prescribed.

When a [1][*nyaya panchayat*] decrees the payment of a sum of money in a suit it may direct that it be paid by instalments, without interest, or with interest not exceeding the above rate.

Reference by [1][*nyaya panchayat*] to District Court or [6][Sessions Court].

77. (*1*) When any [1][*nyaya panchayat*] is of opinion that any suit or cause before it is of such a nature, or of such intricacy or importance that it ought to be tried by a court [3][or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayt* is empowered to inflict] it shall stay proceedings and refer the suit to [4][the District Court] or the case to [5][the [6][Sessions Court]] for [7]* orders.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] Section 73 was substituted for the original by Bom. 18 of 1939, s. 30.

[3] These words were inserted by Bom. 60 of 1947, s. 19.

[4] These words were substituted for the words "the District Judge or any officer not below the rank of Subordinate Judge who may be authorised by the District Judge in that behalf" by Bom. 18 of 1939, s. 31 (*1*) (*a*).

[5] These words were substituted for the words "the Collector or any officer below the rank of Mamlatdar who may be authorised by the Collector in this behalf", *ibid*, s. 31 (*1*) (*b*).

[6] These words were substituted for the words "District Magistrate" by Bom. 23 of 1951, s. 2, Schedule.

[7] The word "his" was deleted by Bom. 18 of 1939, s. 31 (*1*) (*c*).

(*2*) If [1][the [2][District or Sessions Court], as the case may be], is of the opinion that the suit or case is of such nature, intricacy or importance that it ought not to be tried by the [3][*nyaya panchayat*] [4][or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict] [5][such court [6]* * *] shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such suit or case.

(*3*) If [1][the [2][District or Sessions Court], as the case may be], is of opinion that the suit or case is not of such nature, intricacy or importance that it ought to be tried by a Court, [4][or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict] [5][such Court [6]* * *] shall return the suit or case to the [3][*nyaya panchayat*], which made the reference, for disposal.

[7][**78.** (*1*) An appeal shall lie to the District Court against a decree passed by a [3][*nyaya panchayat*] in any suit and to the [8][Sessions Court] against an order in any case. **Appeals.**

(*2*) The period for filing such appeals shall be thirty days from the date of the decree or order, as the case may be.]

[9][**79.** Every order passed under section 77, 78, 87 or 87A by a District Court or by a [8][Sessions Court] shall be final and shall not be subject to any appeal, revision or review.] **Finality of decrees and orders.**

CHAPTER VIII.

EXECUTION.

80. If, on the application of a decree-holder or judgment-debtor, the [3][*nyaya panchayat*], after enquiry, finds that the decree has been satisfied or adjusted, wholly or in part, the [3][*nyaya panchayat*] shall record the fact in the prescribed register. **Satisfaction or adjustment of decree to be recorded.**

81. (*1*) If, after a period of one month from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-holder may, within one year of the date of the decree, apply to the [3][*nyaya panchayat*] for execution. **Execution through Collector.**

(*2*) On such application for execution, the [3][*nyaya panchayat*] shall certify to the Collector that the decree remains unsatisfied or unadjusted, in whole or in part and on receipt of such certification the Collector shall, provided that the [3][*nyaya panchayat*] shall have certified to the Collector within one year from the date of the application for execution,—

(*a*) if the decree is for money, proceed to recover it as if it were an arrear of land revenue ; or

(*b*) if the decree is for any specific moveable property, cause the decree to be executed as if it were a decree of a civil court, and in so acting may exercise all the powers of a civil court.

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[1] These words were substituted for the original by Bom. 18 of 1939, s. 31 (*2*).
[2] These words were substituted for the words "District Court or District Magistrate" by Bom. 23 of 1951, s. 2, Schedule—Part III.
[3] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[4] These words were inserted, *ibid*, s. 19.
[5] These words were substituted for the word "he" by Bom. 18 of 1939, s. 31 (*2*).
[6] The words "or Magistrate" were deleted by Bom. 23 of 1951, s. 2, Schedule
[7] Section 78 was substituted for the original, by Bom. 18 of 1939, s. 32.
[8] These words were substituted for the words "District Magistrate" by Bom. 23 of 1951, s. 2, Schedule—Part III.
[9] Section 79 was substituted for the original, by Bom. 18 of 1939, s. 33.

Execution of instalment decree through Collector.

82. (*1*) If, after a period of one month from the date fixed for the payment of any instalment of a sum of money decreed by a [1][*nyaya panchayat*] under section 76 an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the [1][*nyaya panchayat*].

(*2*) On such application for execution, the [1][*nyaya panchayat*] shall certify to the Collector that the instalment or a portion thereof still remains unpaid, and on receipt of such certification the Collector shall, provided the [1][*nyaya panchayat*] shall have certified to the Collector within one year from the date of the application for execution, proceed to recover the amount of the instalment so remaining unpaid as if it were an arrear of land revenue.

Satisfaction of decree or instalment after certificate.

83. If, after the issue of the certificate to the Collector under section 81 or 82, but before the decree has been executed through the Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 80, the [1][*nyaya panchayat*] shall forthwith certify such satisfaction to the Collector who shall thereupon stay the execution proceedings. All sums of money realised by execution through the Collector shall, after satisfaction of the decree, be refunded to the judgment-debtor.

Fine and compensation when payable.

84. (*1*) Every sum ordered to be paid as compensation and every fine imposed under sections 45, 46, 47 and 48 by a [1][*nyaya panchayat*] shall be payable at once :

Provided that the [1][*nyaya panchayat*] may allow any person ordered by it to pay compensation or fine to pay the same within such time, not exceeding fifteen days, as it may think proper and on such terms as to security as it shall seem to the [1][*nyaya panchayat*] necessary to impose.

Mode of recovery.

(*2*) If the amount of fine or compensation remains unpaid for fifteen days from the date of the order, the [1][*nyaya panchayat*] shall recover the same by distraint and sale of the defaulter's moveable property.

(*3*) If the amount of fine or compensation is not fully recovered, the [1][*nyaya panchayat*] shall certify accordingly to the Collector, and on receipt of such certification the Collector shall, provided the panchayat shall have certified to the Collector within a period of one year from the date when the amount became recoverable by the [1][*nyaya panchayat*] under sub-section (*2*), proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the [1][*nyaya panchayat*].

Fine or compensation, when realised, to be recorded.

85. As soon as the amount of fine or compensation referred to in section 84 is is realised by the [1][*nyaya panchayat*] whether directly or through the Collector, the amount so realised shall be entered in the prescribed register [2]* * *

Payment of compensation out of village fund.

86. Any money which has been ordered by the [1][*nyaya panchayat*], under section 47 or section 48, to be paid as expenses or compensation, shall be paid by it out of the amount realised under sections 45 and 46. [3]* * * *

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[1] These words were substituted for the words " village bench " and " bench " by Bom. 60 of 1947, s. 25.

[2] The words " and shall be credited by the village bench to the village fund " were omitted by the Adaptation of Indian Laws Order in Council.

[3] The words " and the payment so made shall be debited to the village fund " were omitted, *ibid*

87. (*1*) The [1][District Court] in any suit and the [2][Sessions Court] in any case may, at any time, either [3][on the application of an aggrieved party or otherwise] or on a reference made by a [4][*nyaya panchayat*] under section 77 by order in writing, [5]* * * * quash any proceedings of a [4][*nyaya panchayat*] at any stage, or cancel any decree or order passed by a [4][*nyaya panchayat*]. District Court or [2][Sessions Court] may quash proceedings.

(*2*) When an order has been passed by the [6][District Court] under sub-section (*1*) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a civil court and the period from the date of the institution of the suit before the [4][*nyaya panchayat*] to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(*3*) Where an order has been passed by the [2][Sessions Court] under sub-section (*1*) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a magistrate having jurisdiction.

[7][**87A.** (*1*) The District Court in any suit and the [2][Sessions Court] in any case may at any time on the application of an aggrieved party or otherwise by order in writing transfer any suit or case, as the case may be, to a civil or criminal court competent to try the same. Transfer of suit or case by the District Court or [2][Sessions Court.]

(*2*) On the transfer of such suit or case, the court to which it is transferred shall hear such suit or case anew as if such suit or case was instituted before it.]

[7][**87B.** Subject to the provisions of this Act, in regard to all proceedings under this Act, District Courts and [8][Sessions Courts] shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to proceedings in connection with decrees or orders of courts subordinate to them in their ordinary jurisdiction.] Procedure in proceedings before District Court and [2][Sessions Court.]

88. No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act. Bar to arrest and imprisonment in execution of decree.

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[1] These words were substituted for the words "District Judge" by Bom. 18 of 1939, s. 34 (*1*).
[2] These words were substituted for the words "District Magistrate" by Bom. 23 of 1951, s. 2, Schedule Part III.
[3] These words were subst tuted for the words "of his own motion or on the application of an aggrieved party" by Bom. 18 of 1939, s. 24 (*1*).
[4] These words were substituted for the "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[5] The words "cancel the jurisdiction of a village bench or" were deleted, *ibid.*
[6] These words were substituted for the words "District Judge", by Bom. 18 of 1939, s. 34 (*2*).
[7] Sections 87-A and 87-B were inserted, *ibid*, s. 35.
[8] These words were substituted for the words "District Magistrates" by Bom. 39 of 1951, s. 3., Second Schedule.

CHAPTER VIII-A.

[*Deleted by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.*]

CHAPTER IX.

TAXATION AND RECOVERY OF CLAIMS.

Levy of taxes and fees by panchayat.

89. [1][(*1*) Every panchayat shall levy a tax upon the owners or occupiers of [2][buildings] whether or not subject to payment of agricultural assessment, and of lands which are not subject to payment of agricultural assessment, within the limits of the village, in such manner, at such rates and subject to such exemptions as may be prescribed.

(*1A*) Where an owner of a [3][building] or land has left the village or cannot otherwise be found, any person to whom such [3][building] or land has been transferred shall be liable for the tax leviable under sub-section (*1*) from such owner.

(*1B*) The rules made for the levy of the tax specified in sub-section (*1*) may provide that the payment of such tax may be made either in cash or by rendering of work and labour].

[4][(*2*) It shall be competent to a panchayat to levy all or any of the following taxes or fees at such rates and in such manner [5][and subject to such exemptions] as may be prescribed, namely :—]

[6]* * * * * *

(*ii*) a pilgrim tax ;

(*iii*) a tax on [7][fairs, festivals and entertainments] ;

(*iv*) a tax on sales of goods ;

(*v*) octroi ;

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[1] Sub-sections (*1*), (*1A*) and (*1B*) were substituted by Bom. 60 of 1947, s. 20.

[2] This word was substituted for the words "houses including farm buildings" by Bom. 7 of 1954, s. 8(*1*).

[3] This word was substituted for the word "house" *ibid* s. 8, (*2*).

[4] These words, figures and brackets were substituted for the words, figures and brackets "(*2*) Taxes or fees which are leviable by a panchayat under sub-section (*1*) are :—" by Bom. 18 of 1939, s. 36 (*b*) (*i*).

[5] These words were inserted by Bom. 2 of 1945, s. 5 (*ii*), read with Bom. 60 of 1947, s. 2.

[6] Sub-clause (*i*) was deleted by Bom. 18 of 1939, s. 36 (*b*) (*ii*).

[7] These words were substituted for the "fairs and festivals" by Bom. 60 of 1947, s. 20.

(*vi*) a tax on marriages, adoptions and feasts;

[1][(*via*) subject to the provisions of article 276 of the Constitution, a tax on the following professions, trades and callings, namely :—

(*a*) shop keeping and hotel keeping;

(*b*) any trade or calling (other than agriculture) which is carried on with the help of machinery run by steam, oil, electric power or manual labour;]

[2][(*vic*) a fee on markets and weekly bazars;

(*vid*) a fee on cart stand;]

[3][(*vie*) a fee for supply of water from wells and tanks vesting in it, for purposes other than domestic use.]

Bom. XXXIV of 1935.

[4][(*vii*) any other tax (not being a toll on motor vehicles or trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which the [5][State] Legislature has, under the [6][Constitution], power to impose in the [7][State] and which has been approved by the district local board and sanctioned by the [5][State] Government.]

[8][(*2A*) Notwithstanding anything contained in sub-section (*2*) every panchayat shall levy any one of the taxes [9][or fees] specified in sub-section (*2*) as may be prescribed in regard to the panchayat.]

Bom. VI of 1923.

[10][(*2B*) Notwithstanding anything contained in sub-section (*2*) or (*2A*), where a tax on professions, trades, callings and employments has been imposed by a district local board under the provisions of the Bombay Local Boards Act, 1923, in the district including the area within the limits of a panchayat, it shall not be lawful so long as the tax is being so imposed for that panchayat to levy any such tax within its limit.]

(*3*) Any person aggrieved by the assessment, levy or imposition of any such tax or fee may appeal to the [11][standing committee of the district local board]. The decision of the [11][standing committee of the district local board] in the matter shall be final.

(*4*) [12][The [5][State] Government] may suspend the levy or imposition of any tax or fee [13]* * * * and may at any time rescind such suspension.

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[1] This clause was substituted for clauses (*via*) and (*vib*) by Bom. 7 of 1954, s. 8 (*3*).
[2] Clauses (*vic*) and (*vid*) were inserted by Bom. 31 of 1950, s. 12.
[3] This clause was inserted by Bom. 10 of 1951, s. 5.
[4] Clause (*vii*) was substituted for the original by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[6] This word was substituted for the words and figures " Government of India Act, 1935 ", *ibid.*
[7] This word was substituted for the word " Province ", *ibid.*
[8] This sub-section was inserted by Bom. 60 of 1947, s. 20.
[9] These words were inserted by Bom. 31 of 1950 s. 12.
[10] This sub-section was inserted by Bom. 43 of 1955, s. 10. This sub-section shall take effect only from such date as the State Government may by notification in the *Official Gazette* appoint in this behalf.
[11] These words were substituted for " district local board ", by Bom. 60 of 1947, s. 20.
[12] The words " The Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.
[13] The words, brackets and figures " referred to in sub-section (*1*) " were deleted by Bom. 18 of 1939, s. 36 (*ii*).

[1][(5) Until provision to the contrary is made by [2][Parliament], a panchayat which, immediately before the commencement of [3][the Constitution], was lawfully levying under this section, as then in force, any tax other than the taxes mentioned in sub-section (2) may continue to levy that tax].

Farming of fees on markets, etc.

[4][89A. It shall be lawful for a panchayat to lease by public auction or private contract the collecting of any fees which may be imposed under clause (*vic*) of sub-section (2) of section 89;

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.]

Power of district local board to increase taxation of panchayat.

90. (1) If in the opinion of the district local board the regular income of a panchayat falls below what is necessary for the proper discharge of the duties specified in sections 26 and 28, the district local board may require the panchayat to take steps, within six months, to increase its income to such extent as the district local board considers necessary. If the panchayat fails to take adequate steps to increase its income to the required extent, the district local board may require it to levy or increase any of the taxes or fees specified in section 89:

Provided that the district local board shall not compel the panchayat to levy or increase any tax or fee beyond the maximum rate to be prescribed in this behalf.

(2) Any panchayat may appeal to the Commissioner against an order made under sub-section (1) and the Commissioner may stay the execution of such order, until he has decided the appeal.

Recovery of taxes and other dues.

91. (1) When any tax or fee has become due, a panchayat shall with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid.

(2) If any person fails to pay any tax [5][or fee] or any other sum due from him to a panchayat under this Act or the rules or bye-laws on or before the specified date of payment, the panchayat shall cause a writ of demand [6][in the prescribed form] to be served on the defaulter.

[7][(2A) The presentation of every bill under sub-section (1) and the service of every writ of demand under sub-section (2) shall be effected by an officer or servant of the panchayat or other person authorised by the panchayat in this behalf—

(a) by giving or tendering the bill or writ to the person to whom it is addressed or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the limits of the village, or by giving or tendering the bill or writ to some adult male member or servant of his family; or

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[1] Sub-section (5) was inserted by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the words "the Central Legislature" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words and figures "Part III of the Government of India Act, 1935", *ibid.*

[4] Section 89A was inserted by Bom. 7 of 1954, s. 9.

[5] These words were inserted by Bom. 31 of 1950, s. 13.

[6] These words were inserted by Bom. 18 of 1939, s. 37 (1).

[7] Sub-section (2A) was inserted by Bom. 2 of 1945, s. 6, read with Bom. 60 of 1947, s. 2.

(*c*) if such person does not reside within the limits of the village, and his address elsewhere is known to the sarpanch or other person directing the issue of the bill or writ, then by forwarding the bill or writ to such person by registered post, under cover bearing the said address; or

(*d*) if none of the means aforesaid be available, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates.]

(3) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the moveable property of the defaulter [1][in the prescribed manner].

[2][(*4*) Fees for—

(*a*) every distress made under sub-section (*3*),

(*b*) every writ of demand issued under sub-section (*3*),

(*c*) the costs of maintaining any livestock seized under sub-section (*3*) shall be chargeable at such rates as may be prescribed.

(*4A*) Notwithstanding anything contained in the foregoing sub-sections, any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.]

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[1] These words were inserted by Bom. 18 of 1939, s. 37 (*2*).
[2] Sub-sections (*4*) and (*4A*) were substituted for sub-sections (*4*). *ibid.*, s. 37 (*3*).

(*5*) If a panchayat is unable to recover a tax [1][or fee] or other sum due to it as aforesaid, it may furnish to the mamlatdar or mahalkari a statement of the arrears due, with a request for the recovery of the same through the village officers, and on receipt of such statement of arrears, the [2][mamlatdar or mahalkari shall], provided such statement of arrears shall have been furnished by the panchayat to the mamlatdar or mahalkari within one year from the date specified in the bill presented under sub-section (*1*), proceed to recover the same as an arrear of land revenue through the village officers. For the recovery of such sums, the village officers shall be remunerated by the panchayat in such manner as may be prescribed [3]* * *

(*6*) If a panchayat fails to recover any tax, [4][fee,] fine or other sum due to it, or neglects to take action under sub-sections (*2*) and (*3*) of section 84 or (*2*) and (*3*) of this section, the district local board may apply to the Collector to recover the same as an arrear of land revenue :

Provided that no such application shall be made to the Collector after the expiry of [5][two years] from the date when the amount became certifiable under sub-section (*3*) of section 84 or from the date specified in the bill presented under sub-section (*1*) of this section, as the case may be.

On receipt of such application from the district local board, the [6][Collector shall] after holding such enquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue [7][unless such sum is not under section 92 directed to be written off.]

Collector's power to direct irrecoverable sums to be written off.

92. The Collector may direct—

(*a*) any sum certified by a panchayat and recoverable by him under sections 81, 82 and 84 and sub-section (*6*) of section 91 ;

(*b*) any arrear of a tax [8][or fee] or any other sum due to a panchayat and recoverable through a mamlatdar or mahalkari under sub-section (*5*) of section 91;

[9][(*c*) any other sum due to a panchayat, whether under this Act or otherwise;]

to be written off, if in the opinion of the Collector, such sum or arrears are irrecoverable :

[10][Provided that no sum exceeding Rs. 500 shall be written off under clause (*c*) except with the previous sanction of the State Government.]

CHAPTER X.

Financial Assistance to Panchayats.

Contribution by State Government.

[11][**92A**. The State Government shall make every year a grant to every panchayat equivalent in amount to thirty per cent. of the ordinary land revenue realised in the previous year within the limits of the village.]

[1] These words were inserted by Bom. 31 of 1950, s. 13.
[2] These words were substituted for the words "mamlatdar or mahalkari may" by Bom. 18 of 1939, s. 37 (*4*).
[3] The words "by bye-laws" were omitted by Bom. 24 of 1936, s. 2, Sch.
[4] This word was inserted by Bom. 31 of 1950, s. 13 (*2*).
[5] These words were substituted for the words "one year" by Bom. 18 of 1939, s. 37 (*5*) (*a*).
[6] These words were substituted for the words "Collector may", *ibid.*, s. 37 (*5*) (*b*).
[7] These words and figure were inserted, *ibid.*, s. 37 (*5*) (*c*).
[8] These words were inserted by Bom. 31 of 1950, s. 14.
[9] This clause was inserted by Bom. 10 of 1951, s. 6 (*1*).
[10] This proviso was added, *ibid.*, s. 6 (*2*).
[11] This section was substituted for the original by Bom. 13 of 1955, s. 3.

Loan by district local boards.

[1][93. Notwithstanding anything contained in the Bombay Local Boards Act, 1923, the district local board may, subject to rules, grant a loan to a panchayat within the district for the purposes of this Act.] Bom. VI of 1923

CHAPTER XI.

CONTROL.

Power to call for proceedings, etc.

94. (*1*) The Collector or the district local board shall have power—

(*a*) to call for any extract from the proceedings of a panchayat, any book or document in the possession or under the control of a panchayat, and any return, statement, account or report which the Collector or the district local board may think fit to require such panchayat to furnish ; and

(*b*) to require a panchayat to take into consideration—

(*i*) any objection which appears to the Collector or the district local board to exist to the doing of anything which is about to be done or is being done by such panchayat, or

(*ii*) any information which the Collector or the district local board is able to furnish, and which appears to the Collector or the district local board to necessitate the doing of a certain thing by the panchayat,

and to make a written reply to the Collector or the district local board, as the case may be, within a reasonable time, stating its reasons for not desisting from doing or for not doing such things.

(*2*) All or any of the powers given to the district local board under sub-section (*1*) may be delegated by it to its president, vice-president, chief officer, public health officer or executive engineer.

Delegation of duties, appointment of officers, utilisation of honorary agencies for encouraging the establishment and fostering the growth of panchayats.

95. (*1*) The district local board may delegate to the President, Vice-President, the Chief Officer, Public Health Officer or any other officer specially appointed by the district local board in this behalf the duties of encouraging the establishment and fostering the growth of panchayats and of assisting panchayats in the proper exercise of their powers and performance of their duties under this Act.

(*2*) It shall be competent to the district local board to accept and utilise in an honorary capacity in the performance of any of the duties which may be delegated under sub-section (*1*) the services of any person who in the opinion of such Board is specially fitted to assist in this behalf.

(*3*) It shall be competent to [2][the [3][State] Government] to appoint an officer to exercise such of the powers and perform such of the duties of a Collector [4][and if the district local board has been superseded the duties of a district local board] under this Act as [2][the [3][State] Government] may prescribe. Such officer shall also perform such other duties and exercise such other powers as [2][the [3][State] Government] may prescribe for the purpose of encouraging the establishment and fostering the growth of panchayats and [5][*nyaya panchayats*] and of assisting and advising panchayats and [5][*nyaya panchayats*] in the proper exercise of their powers and performance of their duties under this Act.

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[1] This section was substituted for the original by Bom. 60 of 1947, s. 22.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were inserted by Bom. 18 of 1939, s. 39.

[5] These words were substituted for the original by Bom. 60 of 1947, s. 25.

96. The district local board may authorise its president, vice-president, or any of its officers to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by any panchayat or any work in progress under its direction. **Power of entry.**

97. [1][(*1*)] The audit of the accounts of a panchayat shall, unless provision is otherwise made by [2][the [3][State] Government] in that behalf, be carried out each year by the district local board, and such board shall, within one month of the completion of the audit, forward a copy of the audit note to the Collector [4][and the panchayat]. **Audit of accounts.**

[5][(*2*) On receipt of the audit note referred to in sub-section (*1*), the sarpanch shall either remedy any defects or irregularities which may have been pointed out in the audit note and send to the district local board within three months an intimation of his having done so or shall, within the said period, supply to the district local board any further explanation in regard to such defects or irregularities as he may wish to give.

(*3*) On receipt of such intimation or explanation, the district local board may in respect of all or any of the matters discussed in the audit note,—

(*a*) accept the intimation or explanation given by the sarpanch and withdraw the objection,

(*b*) direct that the matter be re-investigated at the next audit or at any earlier date, or

(*c*) hold that the defects or irregularities pointed out in the audit note or any of them have not been removed or remedied.

(*4*) The district local board shall send a report of its decision to the Collector within one month of the date of receipt by it of the intimation or explanation referred to in sub-section (*2*), or in the event of the sarpanch failing to give such intimation or explanation on the expiry of the period of three months referred to in the said sub-section (*2*), and shall forward a copy of such report to the panchayat. If the district local board holds that any defects or irregularities have not been removed or remedied, the district local board shall state in the report whether in its opinion the defects or irregularities can be regularised and if so, by what method; and if they do not admit of being regularised, whether they can be condoned, and if so, by what authority. The district local board shall also state whether the amounts to which the defects or irregularities relate should in its opinion be surcharged.

(*5*) The Collector may, after considering the report of the district local board and after making such further enquiry as he may consider necessary, disallow any item which appears to him contrary to law and surcharge the same on the person making or authorizing the making of the illegal payment and—

(*a*) if the person on whom the surcharge is made be a member proceed against him in the manner described in sub-sections (*2*) and (*3*) of section 110, and

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[1] Section 97 was renumbered as sub-section (*1*) of that section by Bom. 7 of 1954, s. 10 (*1*).
[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were added, by Bom. 7 of 1954, s. 10 (*1*).
[5] Sub-sections (*2*) to (*5*) were added, *ibid*, s. 10 (*2*).

(*b*) if the person on whom the surcharge is made is not a member, then after taking the explanation of the person concerned direct by order in writing that such person shall pay to the panchayat the amount surcharged, and if the amount be not so paid, the Collector shall recover it as an arrear of land revenue and credit it to the village fund.]

Reduction of establishment.

98. (*1*) If, in the opinion of the Collector or the district local board, the number of persons maintained or proposed to be maintained by a panchayat as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on the requirement of the Collector or the district local board, as the case may be, reduce such number or remuneration.

(*2*) If there is a difference between the requirement of the Collector or of the district local board under sub-section (*1*), the panchayat shall refer the matter in difference to the Commissioner whose decision shall be final.

(*3*) The panchayat may appeal to the Commissioner against any requirement made under sub-section (*1*), and the decision of the Commissioner in the matter shall be final.

Suspension of execution of order.

99. (*1*) If, in the opinion of the Collector, the execution of any order or resolution of a panchayat, or the doing of anything which is about to be done or is being done by or on behalf of a panchayat, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, [1][or is unlawful,] he may, by order in writing, suspend the execution or prohibit the doing thereof.

(*2*) When the Collector makes an order under sub-section (*1*) he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons for making it.

(*3*) The Collector shall forthwith submit to the Commissioner a report of every case occurring under this section, and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the Collector could have made.

Execution of work in case of emergency.

100. (*1*) In cases of emergency the Collector may provide for the execution of any work or the doing of any act which a panchayat is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expenses of executing the work or doing the act shall be forthwith paid by the panchayat.

(*2*) If the expense is not so paid, the Collector may direct the officer in charge of the treasury in which the village fund is kept to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

(*3*) The Collector shall forthwith report to the Commissioner every case in which he exercises the powers under sub-section (*1*).

Default in performance of duty.

101. (*1*) If at any time, it appears to the district local board that a panchayat has made default in the performance of any duty specified in section 26, it may order the duty to be performed within a specified period, and, if the duty is not performed within the period specified, the district local board may appoint some person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat, within such period as the district local board may fix.

[1] These words were inserted by Bom. 14 of 1952, s. 4.

(*2*) If the expense is not so paid the district local board may direct the person in custody of the village fund to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

[1][(*2A*) If at any time it appears to the [2][State] Government or any officer authorised by the [2][State] Government in this behalf that a panchayat has made default in the performance of any duty specified in section 26 and that the district local board has failed or neglected to take action under sub-section (*1*), the [2][State] Government or the officer authorised, as the case may be, may take such action as could have been taken by the district local board under sub-sections (*1*) and (*2*).]

(*3*) The district local board [3][or the officer authorised, as the case may be,] shall forthwith report to the Commissioner every case occurring under this section and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the district local board could have made.

Dissolution or supersession of panchayat default.

102. (*1*) If, in the opinion of [4][the [2][State] Government], a panchayat exceeds or abuses its powers, or makes persistent default in the performance of the duties imposed on it under section 26 or any other law for the time being in force, [5][or fails to levy a tax under sub-section (*1*) or sub-section (*2A*) of section 89], [6][or persistently disobeys any of the orders of the Collector or Commissioner under section 99], [4][the [2][State] Government] may, after consultation with the district local board by an order in the [7][*Official Gazette*]—

(*i*) dissolve such panchayat or,

(*ii*) supersede such panchayat for the period specified in the order.

(*2*) When a panchayat is dissolved or superseded, all members of the panchayat shall, from the date specified in the order, vacate their offices as such members.

(*3*) When a panchayat is dissolved, it shall be reconstituted in the manner provided in this Act.

(*4*) If a panchayat is superseded—

(*a*) all the powers and duties of the panchayat shall, during the period, of supersession, be exercised and performed by such person or persons as [4][the [2][State] Government], may, from time to time, appoint in that behalf; and

(*b*) all property vested in the panchayat shall during the period of supersession, vest in [4][the [2][State] Government]; and

(*c*) on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election or re-nomination.

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[1] Sub-section (*2-A*) was inserted by Bom. 18 of 1939 s. 40 (*1*).
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These sewords were inserted by Bom. 18 of 1939, s. 40 (*2*).
[4] The words "the Provincial Government" were substituted for the word "Government by the Adaptation of Indian Laws Order in Council.
[5] This portion was inserted by Bom. 60 of 1947, s. 23.
[6] The sewords were inserted by Bom. 18 of 1939, s. 41.
[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

Dissolution and reconstitution of panchayat on alteration of limits of village.

103. (*1*) When, during the term of the panchayat the limits of a village are altered, the [1][Collector] may, by order in writing dissolve such panchayat and direct a panchayat—

(*i*) to be reconstituted for the village of which the panchayat has been dissolved or

(*ii*) to be established for a village which has been newly declared.

The members of the panchayat which has been dissolved shall vacate their office from the date specified in the order.

(*2*) The panchayat reconstituted or established under the provisions of sub-section (*1*) shall consist of such members, either elected, [2]* or appointed in such manner as the [1][Collector] shall, by order in writing, direct.

The sarpanch and deputy sarpanch of the panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(*3*) The term of the panchayat so reconstituted or established shall be for such period, not exceeding one year, as the [1][Collector] shall, by order in writing, specify.

(*4*) On the expiry of the term of the panchayat in accordance with the provisions of sub-section (*3*), the panchayat shall be constituted in the manner provided by this Act.

Vesting of property, etc., of panchayat which has been dissolved in reconstituted or established panchayat.

104. (*1*) When a panchayat has been dissolved and reconstituted or established under section 103, so much of the village fund and other property vesting in the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, the reconstituted or established panchayat, as the Commissioner may, by order in writing, direct.

(*2*) The rights and liabilities of the panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established panchayat shall vest in such panchayat.

(*3*) Any notice, tax, order, licence, permission, rule or by-law made, issued or imposed in respect of any part of the area subject to the authority of the reconstituted or established panchayat shall be deemed to have been made, issued or imposed by or in respect of such panchayat, unless and until it is superseded by any notice, tax, order, licence, permission, rule or by-law made, issued or imposed by or in respect of such panchayat.

Effect of area being excluded from village.

[3][**104A.** Where by a notification under section 4 any local area forming part of a village is excluded from such village and such area is not included in or declared to be a village, so much of the village fund and other property vesting in the panchayat of the village of which such area formed part, as the commissioner may by order in writing direct, shall vest in the district local board to be utilised for the benefit of the area as the district local board may think fit.

Effect of area ceasing to be a village.

105. On any area ceasing to be a village, by virtue of any notification under section 4,—

(*a*) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification ;

(*b*) the unexpended balance of the village fund and the property vesting in the panchayat shall vest in the district local board, to be utilised for the benefit of the inhabitants of the area as the district local board may think fit.

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[1] The word "Collector" was substituted for the word "Commissioner" by Bom. 18 of 1939, s. 42.
[2] The word "nominated" was deleted, *ibid*, s. 42.
[3] Section 104A was inserted, *ibid*, s. 43.

105A. [3][*Transitional provision when village is converted into municipal district.*] *deleted by Bom. 20 of 1954, s. 5.*

Effect of dissolution or supersession of panchayats or of withdrawal of judicial powers of [3][*nyaya panchayats*] on [3][*nyaya panchayats*] and proceedings pending before them.

106. (*1*) When a panchayat is dissolved or superseded under section 102, 103, [1][,105 or [2][109B] the [3][*nyaya panchayat*] constituted in the village for which the panchayat was established [4][or where all the judicial powers of a [3][*nyaya panchayat*] have been withdrawn under the proviso to sub-section (*2*) of section 37 such [3][*nyaya panchayat*]] shall be deemed to have been dissolved and all members of the [3][*nyaya panchayat*] shall vacate office as from the date of dissolution or supersession [5][*or* the withdrawal of judicial powers], as the case may be.

(*2*) On the dissolution of the [3][*nyaya panchayat*] under sub-section (*1*)—

(*i*) the provisions of sub-sections (*2*) and (*3*) of section 87 shall be deemed to apply in respect of any suits or cases pending before the [3][*nyaya panchayat*] as if [6][the [7][District or Session Court], as the case may be, had passed an order under sub-section (*1*) of section 87 quashing such suits or cases, ; and

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[1] The word, figures and letter, "105 or 105A" were substituted for the word and figures "or 105" by Bom. 19 of 1953, s. 3.

[2] The figures and letter, "109B" were substituted for the figures and letter "105A", by Bom. 20 of 1954, s. 6.

[3] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[4] These words, figures and brackets were inserted by Bom. 18 of 1939, s. 44 (*1*) (*a*).

[5] These words were inserted, *ibid*, s. 44 (*1*) (*b*).

[6] These words were substituted for the words "the District Judge or the Collector", *ibid*, s. 44 (*2*).

[7] These words were substituted for the words "District Court or District Magistrate" by Bom. 39 of 1951, s. 3, Second Schedule.

(*ii*) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Court of the Subordinate Judge or the Magistrate, as the case may be, who would have had jurisdiction to try the suit or case if the [1][*nyaya panchayat*] had not been constituted and such Subordinate Judge or Magistrate, as the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Subordinate Judge or Magistrate.

[2][(*3*) If any local area is excluded from a village and no panchayat is constituted for the area so excluded the provisions of sub-section (*2*) shall, so far as may be, apply in respect of any suits, cases, proceedings or applications which may be pending before the [1][*nyaya panchayat*] in respect of the said area, as if so far as such suits, cases, proceedings and applications are concerned, the [1][*nyaya panchayat*] had been dissolved.]

[3][**106A.** (*1*) (*a*) Notwithstanding anything contained in this Act or rules or bye-laws made thereunder, if at any time it shall appear to the State Government that a panchayat has not been validly constituted under this Act, the State Government may, by notification in the *Official Gazette*, cause all or any of the powers and duties of the panchayat to be exercised and performed by such person or persons, in such manner and for such period and subject to such conditions, as it may think fit.

Powers and duties of panchayat or *nyaya panchayat* not validly constituted to be performed by person appointed by Government or by courts, as the case may be.

(*b*) On the issue of such notification the *nyaya panchayat* already constituted out of such panchayat under sub-section (*1*) of section 37 shall be deemed to have been dissolved and the provisions of sub-section (*2*) of section 106 shall, so far as may be, apply in respect of suits, cases, proceedings or applications which may be pending before such *nyaya panchayat* on the date of the notification issued by the State Government under clause (*a*).

(*2*) All the powers and duties of the panchayat or *nyaya panchayat* exercised and performed *bona fide* till the date of the notification referred to in sub-section (*1*), by the persons who constituted such panchayat or *nyaya panchayat*, as the case may be, shall be deemed to be and always to have been validly exercised and performed by the said persons; and no acts done by the said persons shall be deemed to be invalid or called in question on the ground merely that they were not members of a validly constituted panchayat or *nyaya panchayat* and the said persons shall be deemed to have been indemnified and discharged from liability in respect of such acts.]

[4][**107.** (*1*)] In all matters connected with this Act, [5][the [6][State] Government] shall have and exercise the same authority and control over the district local boards as it has and exercises over them under the Bombay Local Boards Act, 1923.

Authority of [1][State] Government.

Bom. VI of 1923.

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[1] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947 s. 25.
[2] Sub-section (*3*) was inserted by Bom. 18 of 1939. s. 44 (*3*).
[3] Section 106A was inserted by Bom. 14 of 1952, s. 5.
[4] Section 107 was renumbered as section 107 (*1*) by Bom. 18 of 1939, s. 45.
[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[1][(2) In all matters connected with this Act, the [2][State] Government and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively as they have and exercise over them in the general and revenue administration.]

[3][**107A.** The [2][State] Government may call for and examine the record of proceedings of any officer (except the proceedings of the [4][District or the Sessions Court] in judicial proceedings in appeal, revision or reference from the proceedings of a [5][*nyaya panchayat*] for the purpose of satisfying itself as to the legality or propriety of any order passed and may revise or modify the order as shall seem fit.] [2][State] Government may call for proceedings.

CHAPTER XII.

RULES AND BY-LAWS.

108. (*1*) [6][The [2][State] Government] may, by notification in the [7][*Official Gazette*], make rules— Rules.

(*a*) under section 4, regulating the manner in which the [8][Collector] may hold an inquiry ;

(*b*) under section 6, [9][prescribing the number of seats to be reserved for the representatives of women, [10][Scheduled Castes and Scheduled Tribes] in each village panchayat ;]

(*c*) under section 7, prescribing the manner in which the election of members shall be held ;

(*d*) under section 23, regulating the manner in which notice of a vacancy in the office of a sarpanch, deputy sarpanch or members of a panchayat shall be given ;

[11][(*d*1) under section 26A, prescribing the persons in the village from whom and the manner in which the costs of watch and ward under clause (*s*) of sub-section (*1*) of section 26A shall be levied and recovered ;]

(*e*) under section 32, prescribing the custody in which all funds received by and all sums accruing to a panchayat shall be kept ;

[12][(*e*1) under section 33, prescribing the [13][qualifications], powers, duties, remuneration and conditions of service [14][(including disciplinary matters)] of the Secretary of the panchayat] ;

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[1] Sub-section (2) was inserted by Bom. 18 of 1939, s. 45.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] Section 107A was inserted by Bom. 18 of 1939, s. 46.

[4] These words were substituted for the words "District Court or the District Magistrate" by Bom. 39 of 1951, s. 3, Second Schedule.

[5] These words were substituted for the words "village bench" and "bench" by Bom. 60 of 1947, s. 25.

[6] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[8] The word "Collector" was substituted for the word "Commissioner" by Bom. 18 of 1939, s. 47 (*a*).

[9] These words were substituted for the words "regulating the manner in which the Collector shall nominate the holder or his representative", *ibid.*, s. 47 (*b*).

[10] These words were substituted for the words "Muhammadons, Harijans or backward tribes" by Bom. 17 of 1950, s. 7 (*3*).

[11] This clause was inserted by Bom. 60 of 1947, s. 24.

[12] Clause (*e*1) was inserted by Bom. 18 of 1939, s. 47 (*bb*).

[13] This word was inserted by Bom. 60 of 1947, s. 24.

[14] These words and brackets were inserted, *ibid.*

(*f*) under section 36, prescribing the date of submission and form of annual budgets, returns and accounts and the manner in, and the time at, which the meeting of the residents of the village shall be convened ;

[1][(*g*) under section 37, prescribing the manner in which the members constituting a [2][*nyaya panchayat*] shall be elected, and regulating any of the matters specified in sub-section (*6*) of the said section.

(*gg*) under section 37B, prescribing the other duties which the Secretary of a panchayat acting as the Judicial Clerk of that panchayat shall do ;]

(*h*) under section 59, prescribing the fees payable on the institution of suits and cases ;

(*i*) under sections 60, 72, 80 and 85 prescribing the particulars to be entered in registers for suits and cases ;

(*j*) under section 62 prescribing the form of summons ;

(*k*) [3]* * * *

(*l*) under section 76, prescribing the scale of fees which a [2][*nyaya panchayat.*] may direct to be paid in a suit or case ;

(*m*) under section 89, prescribing the rate and the manner in which [4][and the exemptions subject to which] taxes and fees specified in the section shall be leviable ;

[5][(*m*1)] under sub-section (*2A*) of section 89, prescribing for each panchayat any one of the taxes [6][or fees] specified in sub-section (*2*)] ;

(*n*) under section 90, prescribing the maximum rate for the levy of taxes of fees specified in section 89 ;

[7][(*n*1) under sub-section (*2*) of section 91, prescribing the form of the writ to be presented to the defaulter ;

(*n*2) under sub-section (*3*) of section 91, prescribing the form of warrant the method of attachment, auction and sale of the defaulter's moveable property ;]

(*o*) [8][under sub-section (*4*) of section 91, prescribing the rates of fees for writs of demand, distress and costs of maintaining any live-steck seized, and] under sub-section (*5*) of section 91, prescribing the remuneration of village officers for the recovery of taxes and other sums due to a panchayat and the manner in which such remuneration shall be paid ;

(*p*) under section 93, prescribing the terms on which loans may be granted to a panchayat by the district local board ;

(*q*) under section 95, prescribing the powers and duties which may be delegated to or exercised or performed by an officer or person appointed : [9]*

(*r*) under sub-sections (*3*) and (*4*) of section 112, regulating the delegation by [10][the [11][District or the Sessions Court] of the powers therein referred to ;

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[1] Clauses (*g*) and (*gg*) were substituted for clause (*g*) by Bom. 18 of 1939, s. 47 (*c*).
[2] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[3] Clause (*k*) was deleted by Bom. 18 of 1939, s. 47 (*d*).
[4] These words were inserted by Bom. 2 of 1945, s. 7, read with Bom. 60 of 1947, s. 2.
[5] This clause was inserted by Bom. 60 of 1947, s. 24
[6] These words were inserted by Bom. 31 of 1950, s. 15.
[7] Clauses (*n*1) and (*n*2) were inserted by Bom. 18 of 1939, s. 47 (*dd*).
[8] These words, brackets and figures were inserted, *ibid.*, s. 47 (*e*).
[9] The word "and" was deleted, *ibid.*, s. 47 (*f*).
[10] These words were substituted for the words "the District Judge or the Collector", *ibid.*, s. 47(*g*).
[11] These words were substituted for the words "District Court or the District Magistrate" by Bom. 39 of 1951, s. 3, Second Schedule.

[1][(*rr*) authorising the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules, to any provident fund which may be established by a panchayat, or with the approval of the panchayat, by the officers and servants of the panchayat ;]

[2][(*s*) for any other matter which may be prescribed.]

(*2*) The rules to be made under sub-section (*1*) shall be subject to the condition of previous publication :

[3][Provided that rules under clause (*b*) of sub-section (*1*) may be made without previous publication.]

(*3*) Rules made under sub-section (*1*) shall be laid [4][before each of the [5][Houses] of the [6][State] Legislature] at the session [7][thereof] next following and shall be liable to be modified or rescinded by a resolution [8][in which both [5][Houses concur]] and such rule shall, after notification in the [9][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [10][the [6][State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [10][the [6][State] Government] may by notification in the [9][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if it had not been modified or rescinded.

109. (*1*) The district local board may, with the previous sanction of the Commissioner, make by-laws generally for the carrying out of the purposes of this Act. **By-laws.**

(*2*) Without prejudice to the generality of the foregoing provision, the district local board may make by-laws—

(*a*) under section 19, prescribing the time and place of the sittings and regulating the procedure at meetings of a panchayat, and fixing a quorum ;

(*b*) under section 20, prescribing the powers and duties of a sarpanch which may be exercised and performed by a deputy sarpanch ;

(*c*) under section 26—

(*i*) for the purification and protection from pollution of all sources of water used for drinking purposes ;

(*ii*) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over of such tank or well, or by any other method which may be considered advisable ;

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[1] This clause was inserted by Bom. 4 of 1949, s. 6.
[2] Clause (*s*) was inserted by Bom. 18 of 1939, s. 47 (*h*).
[3] This proviso was added by Bom. 45 of 1949, s. 8.
[4] The words " before each of the Chambers of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council " by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word " Chambers " by the Adaptation of Laws Order, 1950.
[6] This word was substituted for the word " Provincial ", *ibid.*
[7] The word " thereof " was substituted for the words " of the said Council ", by the Adaptation of Indian Laws Order in Council.
[8] The words " in which both Chambers concur " were substituted for the words " of the said Council " *ibid.*
[9] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*
[10] The words " the Provincial Government " were substituted for the word " Government ", *ibid.*

(*iii*) for the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience ;

(*iv*) for the regulation of offensive callings or trades ;

(*v*) for the disposal of corpses by burning or burial ;

(*vi*) for the excavation of earth and the filling up of excavations and depressions injurious to health or offensive to the neighbourhood ;

(*vii*) for the removal of noxious vegetation ;

(*viii*) for the repair and removal of dangerous or ruinous buildings ;

(*ix*) for the prevention of the erection of buildings without adequate provisions for ventilation, or the laying out and location of streets ;

(*x*) for the control of fairs and bazars, and the regulation of markets, slaughter-houses and cart-stands ;

(*xi*) for the inspection and destruction of unfit food and drink exposed for sale ; and

(*xii*) for the general regulation of sanitation and conservancy [1][and the disposal of carcasses of dead animals] ;

(*d*) under section 28, for the supervision of labourers employed by local boards, and of repairs to dharamsalas, the management and maintenance of cattle-pounds, execution of works entrusted by the district local board, distribution of irrigation water and performance of other duties assigned by [2][the [3][State] Government].

(*3*) Any by-law made under the foregoing sub-sections may provide that a contravention thereof shall be punishable—

(*a*) with a fine, which may extend to Rs. [4][20], or

(*b*) in the case of a continuing contravention, with a fine, which may extend to Re. 1 per day after conviction for the first contravention during the period within which such contravention continues.

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[5][CHAPTER XII-A.

Provisions for conversion of a municipality into a village panchayat and vice versa and for amalgamation and division of village panchayats.

Interpretation.

109A. For the purposes of this Chapter, unless there is anything repugnant in the subject or context, the expression—

(*a*) " municipality " includes a person or persons appointed to exercise the powers and to perform the functions of a municipality under section 179 of the Bombay District Municipal Act, 1901 ; Bom. III of 1901.

(*b*) " village panchayat " includes a person or persons appointed to exercise the powers and to perform the functions of a village panchayat under section 102.

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[1] These words were added by Bom. 7 of 1954, s. 11.

[2] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] These figures were substituted for the figures " 10 " by Bom. 31 of 1950, s. 16.

[5] Chapter XII-A was inserted by Bom. 20 of 1954, s. 7.

Conversion of a municipality into a village panchayat.

Effect of conversion of municipality into village panchayat.

109B. When any local area ceases to be a municipal district by virtue of a notification under section 4 of the Bombay District Municipal Act, 1901, and is declared to be a village under section 4 (hereinafter in this section referred to as the village), with effect from the day on which such local area is declared to be a village (hereinafter in this section referred to as the said date), the following consequences shall ensue, namely :—

Bom. III of 1901.

(*a*) the municipality of such local area (herein referred to as the municipality) shall cease to exist or to function ;

(*b*) there shall, notwithstanding anything contained in the Bombay Local Boards Act, 1923, be constituted for the village an interim village panchayat consisting of persons vacating office as councillors of the municipality and the President and Vice-President of the municipality shall, respectively, be deemed to be the Sarpanch and Deputy Sarpanch of the interim village panchayat ;

Bom. VI of 1923.

(*c*) the unexpended balance of the municipal fund and the property (including arrears of rates, taxes and fees) belonging to the municipality and all rights and powers which prior to such notification, vested in the municipality shall, subject to all charges and liabilities affecting the same, vest in the interim village panchayat as the village fund until the new village panchayat is constituted in pursuance of the provisions of sub-section (*1*) of section 109C ;

(*d*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law, or form made, issued, imposed or granted under the Bombay District Municipal Act, 1901 ; immediately before the said date in respect of such local area shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the village until it is superseded or modified by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act ;

Bom. III of 1901.

(*e*) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated under the Bombay District Municipal Act, 1901, immediately before the said date in respect of such local area shall be deemed to have been made or authenticated under this Act ;

Bom. III of 1901.

(*f*) all debts and obligations incurred and all contracts made by or on behalf of the municipality immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the village panchayat in exercise of the powers conferred on it by this Act ;

(*g*) all officers and servants in the employ of the municipality immediately before the said date shall be officers and servants of the village panchayat under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date :

Provided that it shall be competent to the village panchayat, subject however, to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the village panchayat service, after giving such officer

or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the municipality, in the employ of which he was, had not ceased to exist ;

(*h*) all proceedings pending at the said date before the municipality shall be deemed to be transferred to and continued by the village panchayat ;

(*i*) all appeals pending at the said date before the municipality shall, so far may be practicable, be disposed of as if such local area had been included in the village when they were filed ;

(*j*) all prosecutions instituted by or on behalf of the municipality and all suits or other legal proceedings instituted by or against such municipality or any officer of such municipality pending at the said date shall be continued by or against the village panchayat as if such local area had been included in the village when such prosecutions, suits or proceedings were instituted.

Term of office of members of interim village panchayat and their powers.

109C. (*1*) The Collector shall, within a period not exceeding one year from the date on which the interim village panchayat has been constituted, take steps to hold election for a new village panchayat.

(*2*) The members of the interim village panchayat shall hold office until the date immediately preceding the date of the first meeting of the new village panchayat.

(*3*) Any vacancy in the office of the interim village panchayat shall be filled as soon as it conveniently may be, by appointment by the Collector,

(*4*) During the period for which the members of the interim village panchayat shall be in office as provided in sub-section (*2*), no *nyaya panchayat* shall be constituted for the village.

(*5*) All arrears of rates, taxes and fees vesting in the interim village panchayat shall be recoverable under the provisions of this Act as if the rates, taxes and fees were imposed and recoverable under this Act:

Provided that steps to recover arrears of rates, taxes and fees shall be taken within a period of three years from the date on which they vest in the interim village panchayat.

(*6*) In other respects the provisions of this Act shall, *mutatis mutandis*, apply to the interim village panchayat and its members.

(*7*) If any difficulty arises,-

(*i*) in the constitution of the interim village panchayat or the new village panchayat which succeeds it, or

(*ii*) in giving effect to the provisions of this section,

the State Government may by order, as occasion may require, do, notwithstanding anything contained in this Act or the Bombay District Municipal Act, 1901, anything which appears to it to be necessary to remove the difficulty. Bom. III of 1901.

Conversion of a village panchayat into a municipality.

Members to vacate office on conversion of village panchayat into municipality.

Bom. VI of 1923. Bom. III of 1901.

109D. Notwithstanding anything contained in this Act, or in the Bombay Local Boards Act, 1923, when any local area ceases to be a village by virtue of a notification under section 4 and is declared to be a municipal district under section 4 of the Bombay District Municipal Act, 1901, the following consequences shall ensue, namely :—

(*a*) the village panchayat constituted in respect of such local area shall cease to exist or to function;

(*b*) all members of the said village panchayat shall vacate office;

(*c*) an interim municipality shall be constituted and shall function for such local area as provided in Chapter XIV-A of the Bombay District Municipal Act, 1901 ;

Bom. III of 1901.

(*d*) the provisions of section 106 shall apply to the *nyaya panchayat* of such village panchayat.

Amalgamation of village panchayats.

Effect of amalgamation of villages.

109E. When two or more villages cease to be villages and the local areas constituting such villages are amalgamated and declared to be one village (hereinafter in this section referred to as the amalgamated village) by virtue of a notification under section 4, with effect from the date on which such notification is issued (hereinafter in this section referred to as the said date) the following consequences shall ensue, namely :—

(*a*) the village panchayats of such local areas shall cease to exist and all the members of such village panchayats shall vacate office;

(*b*) all powers and duties of such village panchayats shall be exercised and performed by such person or persons (herein referred to as the administrator or administrators) as the State Government appoints in this behalf;

(*c*) the unexpended balance of the village funds and all the properties (including arrears of rates, taxes and fees) belonging to such village panchayats and all rights and powers which, prior to the said date, vested in such village panchayats shall, subject to all charges and liabilities affecting the same, vest as the village fund,—

(*i*) in the administrator or administrators, until the village panchayat for the amalgamated village is constituted (herein referred to as the amalgamated village panchayat) and holds its first meeting under sub-section (*1*) of section 12 ; and

(*ii*) thereafter, in the amalgamated village panchayat;

(*d*) the unexpended balance of the village funds and all the properties (including arrears of rates, taxes and fees) shall, until the amalgamated village panchayat is constituted and holds its first meeting, be utilised for the benefit of the inhabitants of such local areas in such manner as the administrator or administrators may think fit;

(*e*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted in respect of such local areas and in force on the said date shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the amalgamated village until it is superseded or modified by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law, or form made, issued, imposed or granted under this Act;

(*f*) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by such village panchayats immediately before the said date shall be deemed to have been made or authenticated in respect of the amalgamated village under this Act;

(*g*) all debts and obligations incurred and all contracts made by or on behalf of such village panchayats immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the amalgamated village panchayat in exercise of the powers conferred on it by this Act;

(*h*) all officers and servants in the employ of such village panchayats immediately before the said date shall be officers and servants of the amalgamated village panchayat and shall, until other provision is made in accordance with this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the administrator or administrators or the amalgamated village panchayat, subject however, to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in his, their or its opinion, is not necessary or suitable to the requirements of the village panchayat service in respect of the amalgamated village, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity, as he would have been entitled to take or receive on being invalided out of service, as if the village panchayats, in the employ of which he was, had not ceased to exist;

(*i*) all proceedings pending at the said date before such village panchayats shall be deemed to be transferred to and continued by the administrator or administrators or the amalgamated village panchayat, as the case may be;

(*j*) all appeals pending befor such village panchayats at the said date shall, so far as may be practicable, be disposed of by the administrator or administrators or the amalgamated village panchayat, as the case may be;

(*k*) all prosecutions instituted by or on behalf of such village panchayats and all suits or other legal proceedings instituted by or against such village panchayats or any officer of such village panchayats pending at the said date shall be continued by or against the amalgamated village panchayat.

Division of a village into two or more villages.

109F. (*1*) Where any local area comprised within the limits of a village ceases to be a village and is declared as constituting two or more new villages by virtue of a notification under section 4, with effect from the date on which such notification is issued (hereinafter in this section referred to as the said date), the following consequences shall ensue, namely :— Effect of division of village.

(*a*) the village panchayat constituted in respect of such local area shall cease to exist or to function and all the members of the village panchayat shall vacate office ;

(*b*) until village panchayats are constituted for the new villages, the State Government shall appoint a person or persons to exercise the powers and perform the functions of the village panchayat for each of the new villages ;

(*c*) the unexpended balance of the village fund and all the property (including arrears of rates, taxes and fees) belonging to such village panchayat shall vest in the new village panchayats in such proportion and in such manner as the State Government may direct ;

(*d*) the officers and servants of such village panchayat shall be allocated by the State Government between the new village panchayats in such manner as the State Government may direct ;

(*e*) subject to clauses (*a*) to (*d*) the provisions of section 109E shall *mutatis mutandis* apply to the administrator or administrators or the new village panchayats and their members.

(*2*) If any difficulty arises in giving effect to the provisions of section 109E and this section, the State Government may by order, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty.]

CHAPTER XIII.

MISCELLANEOUS.

110. (*1*) Every member of a panchayat shall be personally liable for the loss, waste, or misapplication of any money or other property of the panchayat, to which he has been party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member. Liability of members for loss, waste or misapplication.

(*2*) If, after giving the member concerned a sufficient opportunity for showing cause to the contrary the Collector is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross neglect on his part, the Collector [1][shall] by order in writing direct, such member to pay to the panchayat before a fixed date, the amount required to reimburse it for such loss, waste or misapplication.

(*3*) If the amount is not so paid the Collector shall recover it as an arrear of land revenue and credit it to the village fund.

[1] The word "shall" was substituted for the word "may" by Bom. 18 of 1939, s. 38 (*1*).

(*4*) The decision of the Collector shall be [1][subject to an appeal to the Commissioner] as to the liability of a member under sub-section (*2*) and as to the amount to be recovered from him.

Bar of action against panchayats, [2][*nyaya panchayats*] etc., and previous notice before institution.

111. (*1*) No action shall lie against any member, officer, servant or agent of a panchayat or a [2][*nyaya panchayat*] acting under its direction, in respect of any thing done in good faith under this Act or any rule or by-law.

(*2*) No action shall be brought against any panchayat or [2][*nyaya panchayat*] or any member, officer, servant or agent of such panchayat or [2][*nyaya panchayat*] acting under its direction for anything done or purporting to have been done under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office of the panchayat or [2][*nyaya panchayat*] and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(*3*) Every such action shall be commenced within six months after the accrual of the cause of action and not afterwards.

(*4*) If any panchayat or [2][*nyaya panchayat*] or person to whom a notice under sub-section (*2*) is given shall, before an action is brought, tender sufficient amends to the plaintiff and pay into court the amount so tendered, the plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

Delegation of powers.

112. (*1*) [3][The [4][State] Government] may, by notification in the [5][*Official Gazette*], authorise the Commissioner or any officer [6][including an officer] specially empowered under sub-section (*3*) of section 95 to exercise in respect of panchayats [7]* * * any of the powers which may be exercised by [3][the [4][State] Government] under this Act [8][except the powers in respect of the [2][*nyaya panchayat*] under Chapter VI].

(*2*) [3][The [4][State] Government] may also, by notification in the [5][*Official Gazette*], authorise any person to exercise in respect of panchayats any of the powers conferred on a district local board under the provisions of this Act, when such district local board shall have been dissolved or superseded.

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[1] These words were substituted for the word "final" by Bom. 18 of 1939, s. 48 (*2*).

[2] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[6] These words were inserted by Bom. 18 of 1939, s. 49 (*1*) (*a*).

[7] The words "and village benches" were deleted, *ibid.*, s. 49 (*1*) (*b*).

[8] These words were inserted, *ibid.*, s. 49 (*1*) (*c*).

(*3*) Subject to rules made in this behalf, the [1][District Court] may delegate to a Subordinate Judge the powers exercisable by [2][the District Court in regard to suits under this Act] in respect of [3][*myaya panchayat*] in a village within the jurisdiction of the said Subordinate Judge.

[4][(*4*) Subject to rules made in this behalf, the [5][Sessions Court] may delegate to a Magistrate of the First Class exercising appellate jurisdiction under section 407 of the Criminal Procedure Code, 1898, the powers exercisable by [6][it] in regard to cases under this Act in respect of a [3][*nyaya panchayat*] in a village within the said jurisdiction of the said Magistrate. V of 1898.

(*5*) Subject to the general or special orders of the [7][State] Government the Collector may delegate to an officer not below the rank of [8][a Mamlatdar or Mahalkari] powers [9]* * * exercisable by the Collector under this Act.]

Local inquiry and reports by panchayat.

113. It shall be the duty of every panchayat to inquire and report in any of the following cases :—

(*a*) any case where a magistrate has directed that a previous local investigation be made by a panchayat under section 202 of the Code of Criminal Procedure, 1898, and the words "such other person" in sub-section (*1*) of the said section shall be deemed to include a panchayat ; V of 1898.

(*b*) any case in which a magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, may require from the panchayat in whose village either the wife or child for whose maintenance the application is made or the husband or parent respectively of such wife or child resides, a report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable and such report shall be evidence in such inquiry : V of 1898.

Provided that no member of the panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the magistrate, may in his discretion, call for a further report.

Members, etc., of panchayats or [3][*nyaya panchayats*] to be public servants.

114. Every member of a panchayat or [3][*nyaya panchayat*] and every officer and servant maintained by or employed under a panchayat or [3][*nyaya panchayat*] shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

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[1] These words were substituted for the words "District Judge" by Bom. 18 of 1939, s. 49 (*2*).

[2] These words were substituted for the words figures and brackets, "the District Judge in regard to suits under sub-section (*1*) of section 87", *ibid.*

[3] These words were substituted for "village bench" by Bom. 60 of 1947, s. 25.

[4] Sub-sections (*4*) and (*5*) were substituted for the original sub-section (*4*) by Bom. 18 of 1939, 49 (*3*).

[5] These words were substituted for the words "District Magistrate" by Bom. 39 of 1951, s. 3, Second Schedule.

[6] This word was substituted for the word "him", *ibid.*

[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[8] These words were substituted for the words "an Assistant or Deputy Collector" by Bom. 31 of 1950, s. 17.

[9] The words and figure "other than the powers under section 4" were deleted by Bom. 2 of 1945, read with Bom. 60 of 1947, s. 2.

Bom. IX of 1920.

115. (1) The Bombay Village Panchayats Act, 1920, is hereby repealed : Provided that— Repeal and savings.

(*a*) such repeal shall not affect the liability of any person to pay any sum due from him under the said Act or the validity or invalidity of anything already done thereunder ;

Bom. IX of 1920.

(*b*) all panchayats established under the Bombay Village Panchayats Act, 1920, and existing immediately before the coming into force of this Act shall be deemed to have been established under this Act ;

and the rights and liabilities of any such panchayats shall be vesting in and attached to the panchayat so deemed to have been established ;

and any appointment, notification, notice, tax, order, permission, rule or by-law made, issued or imposed in respect of any such panchayat under the Act so repealed shall, so far as is not inconsistent with the provisions of this Act, be deemed to have been made, issued or imposed under the provisions of this Act, in respect of the panchayats so deemed to have been established under this Act unless and until superseded by any appointment, notification, notice, tax, order, permission, rule or by-law made, issued or imposed under this Act.

(*2*) During such time as this Act and the rules and by-laws shall be in operation in any village, the enactments mentioned in the Schedule shall, to the extent specified in the third column of the Schedule, cease to have any operation in the said village.

SCHEDULE.

(*See* section *115*)

No. and year of enactment.	Subject or Title.	Extent of repeal.
Bombay Act VII of 1867	.. The Bombay District Police Act, 1867.	Sections 33 and 34.

BOMBAY ACT No. XIII of 1933.[1]

[THE CITY OF BOMBAY MUNICIPAL (AMENDMENT) ACT, 1933.]

[*28th September 1933.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act further to amend the City of Bombay Municipal Act, 1888, with a view to transfer the powers and duties of the Trustees for the Improvement of the City of Bombay to, and to vest the property and rights vested in the said Trustees in, the Municipal Corporation of the City of Bombay, on the dissolution of the Board of the said Trustees.

Bom. XVI of 1925. Bom. IV of 1898. WHEREAS the [2]City of Bombay Improvement Trust Transfer Act, 1925, was enacted with a view to transfer to the Municipal Corporation of the City of Bombay the powers of the Board of Trustees for the Improvement of the City of Bombay constituted under the [3]City of Bombay Improvement Act, 1898, and to entrust to the said Corporation, subject to the conditions and limitations specified, the duties of the said Board and to vest in the said Corporation, for the purpose of the improvement of the City of Bombay, the property and rights of the said Board;

Bom. XVI of 1925. And whereas in pursuance of the aforesaid object the duty of carrying out the provisions of the [2]City of Bombay Improvement Trust Transfer Act, 1925, was, subject to the conditions and limitations therein contained, entrusted to the said Corporation as the Board of Trustees for the Improvement of the City of Bombay as a body corporate with perpetual succession and a common seal and certain property and rights were vested in the said Board;

And whereas by section 83 of that Act it was further provided that when the Corporation are satisfied that there is no longer any necessity for the continuance of the Board of Trustees they shall make a representation to Government in that behalf and the Government may, in the manner prescribed in the said section, dissolve the Board;

Bom. III of 1888. And whereas a representation has been made to the Government of Bombay by the said Corporation that the said Board be now dissolved and that legislation may be undertaken to make such amendments as may be necessary in the City of Bombay Municipal Act, 1888, for that purpose;

And whereas it appears to the Government of Bombay that the said Board should now be dissolved and that the powers and duties of the said Board should be transferred to and the property and rights vested in the said Board should be vested in the said Corporation subject to the limitations hereinafter mentioned and that a committee of the said Corporation to be called the Improvements Committee should be constituted in accordance with the provisions of this Act, and subject to the restrictions and conditions hereinafter specified, for the purpose of the improvement of the City of Bombay in the manner hereinafter mentioned;

And whereas it is proposed that certain lands shall be vested in the said Corporation in the manner hereinafter appearing;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, pp.155–165; for Report of the Select Committee, *see ibid.*, 1933, Pt. V, pp. 541–552 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vols. XXXVII and XXXVIII.

[2] Since repealed by Bom. 13 of 1933, Appendix.

[3] Repealed by Bom. 16 of 1925, s. 4.

And whereas the plans of such last mentioned lands have been deposited with the Collector of Bombay and are hereinafter referred to as the deposited plans ;

And whereas for the purposes aforesaid it is expedient to amend the City of Bombay Municipal Act, 1888, in manner hereinafter appearing ; Bom. III of 1888.

And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act, and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act ; It is hereby enacted as follows :— 5 & 6 Geo. V c. 61.

Short title.

1. This Act may be called the City of Bombay Municipal (Amendment) Act, 1933.

Commencement.

2. This Act shall come into operation from such date as [1]the Government may, by notification in the [2][*Official Gazette*], appoint.

3–37. [*Amendments made by sections 3–37 have been incorporated in the City of Bombay Municipal Act, 1888 (Bom. 3 of 1888).*]

Provision regarding pending cases.

38. Notwithstanding anything contained in sections 90, 354S, 354T and 354U of the said Act and in section 40 of this Act, in respect of appeals made to the High Court under the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, before the date on which this Act comes into operation, the High Court shall continue to perform the functions assigned to it under the aforesaid Acts and every such appeal shall, so far as may be, be decided in accordance with the provisions of the aforesaid Acts as if this Act had not been passed. Bom. IV of 1898. Bom. XVI of 1925.

Further provision regarding pending references.

39. All references, moneys, securities, properties, papers, documents, vouchers, books, records and proceedings transferred to the High Court under section 66A of the City of Bombay Improvement Trust Transfer Act, 1925, shall be disposed of by the High Court ,as nearly as may be, in accordance with the provisions of that Act and the provisions of that Act shall, so far as may be, apply to them, as if they had been made, held or controlled in accordance with that Act and as if this Act had not been passed. Bom. XVI of 1925.

Officers and servants of the Board to become municipal officers and servants.

40. (*1*) From the date on which this Act comes into operation every officer and servant of the Board constituted under the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, shall be deemed to be for all purposes a municipal officer or servant and the designations, grades, salaries, fees and allowances of such officers and servants shall be deemed to have been duly sanctioned under section 79 of the City of Bombay Municipal Act, 1888, and the provisions of the said Act and of any regulations made thereunder relating to municipal officers and servants shall apply to all such officers and servants as if they had been appointed under the said Act : Bom. IV of 1898. Bom. XVI of 1925. Bom. III of 1888.

Provided that such officers and servants shall not be entitled to claim the benefit of any pension or special leave admissible under the pension rules or leave rules of the Corporation.

(*2*) Any officer or servant of the said Board, who has been in the service of the Board for a period of not less than five years before the date on which this Act comes into operation shall be entitled in case of retirement within two years from the date of the passing of this Act, to all the benefits of the rules regarding leave in force at the date of the passing of this Act, and to draw his share of the said Board's contribution to the provident fund.

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[1] The Government means the Provincial Government.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

Leave and provident fund of Chief Officer appointed Deputy Municipal Commissioner (Improvements).

(*3*) The person holding the office of Chief Officer under section 26 of the City of Bombay Improvement Trust Transfer Act, 1925, at the commencement of the City of Bombay Municipal (Amendment) Act, 1933, shall, so long as he continues to be the Deputy Municipal Commissioner (Improvements) under the provisions of sub-section (*4*) of section 56A, in all matters of leave and provident fund continue to be governed by the terms and conditions of his appointment as such Chief Officer and be entitled to the benefits thereof.

Bom. XVI of 1925.

(*4*) If the said person be appointed Deputy Municipal Commissioner (Improvements) under sub-section (*1*) of section 56A, he shall, in all matters of leave and, provident fund, be deemed to have been subject from the date of his appointment as Chief Officer to the rules to which he would have been subject had he been appointed on the said date a Deputy Commissioner under this Act and to be entitled to the benefits thereof.

Transitory provisions.

41. Notwithstanding anything contained in the said Act, the Commissioner, in addition to the sum payable to the Board of Trustees for the Improvement of the City of Bombay under section 84 of the City of Bombay Improvement Trust Transfer Act, 1925, shall in the municipal accounts, under a separate heading, credit to the accounts of the property vested or vesting in the Corporation and of the receipts and expenditure of the Corporation on account of the transfer to them of the powers, duties, assets and liabilities of the Board of Trustees for the Improvement of the City of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925, and in the manner prescribed in section 123A of the said Act :—

Bom. XVI of 1925.

Bom. XVI of 1925.

(*i*) a sum equal to the amount of the actual net realizations of the Corporation for the financial year 1932–33 under the head of general tax or payments made in lieu of general tax (including arrears and payments in advance) divided by the rate fixed for the general tax for the said financial year ; and

(*ii*) a sum equal to three-fourths of the net receipts from the tobacco duty levied under section 2 of the Tobacco Duty (Town of Bombay) Act, 1857, from the 19th day of March 1932 until the 31st day of March 1934 (both days inclusive).

IV of 1857.

Repeal.

42. The enactments specified in the Appendix are hereby repealed to the extent mentioned in the fourth column thereof ;

Provided that—

Bom. IV of 1898.

(*a*) the said repeal shall not affect the validity or invalidity of anything already done under the said Acts or under the City of Bombay Improvement Act, 1898 ;

Bom. IV of 1898.

(*b*) the said repeal shall not affect any appeal made to the High Court from any award or any part of the award of the Tribunal of Appeal under sub-section (*11*) of section 48 of the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation ; but every such appeal shall, so far as may be, be decided by the High Court in accordance with the provisions of the City of Bombay Improvement Act, 1898, as supplemented by Act XIV of 1904 as if this Act had not been passed ;

Bom. IV of 1898.

Bom. IV of 1898.

Bom. XVI of 1925.

(*c*) all appointments, rules, orders and by laws made, notifications and notices issued, rents, premia, and fees imposed, contracts entered into and suits and other proceedings instituted under the City of Bombay Improvement Act, 1898, and the City of Bombay Improvement Trust Transfer Act, 1925, shall, so far as may be, be deemed to have been respectively made, issued, imposed, entered into and

instituted under the City of Bombay Municipal Act 1888, as amended by this Act; Bom. III of 1888.

(*d*) all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board of Trustees constituted under the City of Bombay Improvement Act, 1898, or of the City of Bombay Improvement Trust Transfer Act, 1925, before this Act comes into operation shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Municipal Corporation of the City of Bombay; Bom. IV of 1898 Bom. XVI of 1925.

(*e*) sections 42 to 51 inclusive of the City of Bombay Improvement Trust Transfer Act, 1925, shall continue to have effect, so far as applicable, with respect to all Poorer Classes Accommodation Schemes duly sanctioned in accordance with the provisions of the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, before the date on which the City of Bombay Municipal (Amendment) Act, 1933, comes into operation, provided that references in the said sections to the committee and to the Board shall be deemed to be references to the Improvements Committee constituted under the City of Bombay Municipal Act, 1888, as amended by the City of Bombay Municipal (Amendment) Act, 1933, and to the Municipal Corporation of the City of Bombay respectively. Bom. XVI of 1925. Bom. IV of 1898. Bom. XVI of 1925. Bom. III of 1888.

Nothing in this Act shall affect any present right of appeal which may have accrued to any party before the date on which this Act comes into operation.

APPENDIX.

ENACTMENTS REPEALED.

(*See* section 42.)

Year.	No.	Short title.	Extent of repeal.
1898 ..	I	The City of Bombay Municipal Investments Act, 1898.	Sections 2 and 3.
1925 ..	XVI	The City of Bombay Improvement Trust Transfer Act, 1925.	The whole.
1927 ..	IV	The City of Bombay Improvement Trust Transfer (Amendment) Act, 1927.	Do.
1927 ..	V	The City of Bombay Improvement Trust Transfer (Amendment No. 2) Act, 1927.	Do.
1928 ..	VI	The City of Bombay Improvement Trust Transfer (Amendment), Act, 1928.	Do.
1931 ..	XI	The City of Bombay Improvement Trust Transfer (Amendment) Act, 1931.	Do.
1931 ..	XXI	The City of Bombay Municipal and Improvement Trust Transfer (Amendment) Act, 1931.	In section 1 the words "and Improvement Trust Transfer." Section 3.
1931 ..	XXIV	The City of Bombay Improvement Trust Transfer (Second Amendment) Act, 1931.	The whole.

BOMBAY ACT No. XVIII OF 1933.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1933.]

[*18th October 1933.*]

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908 WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay, for the purpose hereinafter appearing;

5 & 6 Geo. V. c. 61. And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Registration (Bombay Amendment) Act, 1933.

Amendment of section 69 of Act XVI of 1908. XVI of 1908. **2.** To clause (*gg*) of sub-section (*1*) of section 69 of the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay, hereinafter called the said Act, the following, shall be added, namely:—

"and the manner of fixing the signature and seal of the Photo-Registrar at the end of a length of film;"

Amendment of section 70D of Act XVI of 1908. **3.** To clause (*c*) of sub-section (*1*) of section 70D of the said Act the following shall be added, namely:—

"Provided that when more than one such negative is recorded on one length of film and the Photo-Registrar has affixed his signature and seal at the end of such length of film certifying in the manner prescribed by rules made in this behalf, the exact correspondence of all copies on such length of film with the original documents, the Photo-Registrar shall be deemed to have affixed his signature and seal to each such negative on such length of film."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, p. 962; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVIII.

[2] *See* Central Acts.

940-II Bk H 957—32

THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1933.

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PREAMBLE.

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8. Amendment of section 122 of Act III of 1909.
9. Amendment of section 123 of Act III of 1909.
10. Insertion of new sections 123A and 123B in Act III of 1909.
11. Repeal.

SCHEDULE I.

MO-II Bk H 957—32a

BOMBAY ACT No. XX OF 1933.[1]

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1933.]

[*27th October 1933*]

Amended by Bom. 3 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.

Amended by Bom. 17 of 1945.*

Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to amend the Presidency-towns Insolvency Act, 1909, in its application to [2][the Greater Bombay].

III of 1909. 5 & 6 Geo. V, c. 61.

WHEREAS it is expedient to amend the [3]Presidency-towns Insolvency Act, 1909, in its application to [2][the Greater Bombay] for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1933.

(*2*) It extends to [2][the Greater Bombay] [4]* * *

Amendment of section 74 of Act III of 1909.

III of 1909.

2. In section 74 of the [3]Presidency-towns Insolvency Act, 1909, in its application to [2][the Greater Bombay] [4]* * *, hereinafter referred to as "the said Act" for the words "it, and also to pay out of his owned money interest thereon" the words "such dividend and interest thereon" shall be substituted.

Insertion of new section 77A in Act III of 1909.

3. After section 77 of the said Act, the following section shall be inserted, namely:—

Official Assignee to be corporation sole.

"77A. The Official Assignee shall be a corporation sole by the name of the Official Assignee of Bombay [5]* * * * *, and as such Official Assignee shall have perpetual succession and an official seal and may sue and be sued in his corporate name and may do all acts necessary or expedient to be done in the execution of his office."

Amendment of section 82 of Act III of 1909.

4. For section 82 of the said Act, the following section shall be substituted, namely:—

Liability of Provincial Government.

"82. The revenues of the [6][7][State] Government] shall be liable to make good all sums required to discharge any liability which the Official Assignee may be liable to discharge, except when such liability is one to which neither the Official Assignee nor any of his officers has in any way contributed or which neither he nor any of his officers could, by the exercise of reasonable diligence, have averted and in either of these cases the Official Assignee shall not, nor shall the revenues of the [6] [7][State] Government], be subject to any liabilities."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, pp. 973-974; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVIII.

[2] These words were substituted for the original by Bom. 17 of 1945 read with Bom. 52 of 1947, s. 2, proviso.

[3] *See* Central Acts.

[4] The words "and the town of Karachi" were omitted by the Adaptation of Laws Order, 1950.

[5] The words "or, the Official Assignee of Karachi, as the case may be" were omitted, *ibid.*

[6] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

* This Act has been repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Amendment of section 83 of Act III of 1909.

5. For section 83 of the said Act, the following section shall be substituted, namely :—

Description by which Official Assignee to be mentioned in suits or proceedings.

"83. In all suits or proceedings by or against the Official Assignee, there shall be inserted after his official title, the description 'as assignee of the property of an insolvent (naming the particular insolvent)'."

Amendment of section 112 of Act III of 1909.

6. In sub-section (*2*) of section 112 of the said Act :—

(*i*) for clause (*d*), the following clause shall be substituted, namely :—

[1]* * * * * *

(*ii*) in clause (*f*), after the word "audit" the words "and inspection" shall be inserted ;

(*iii*) clause (*g*) shall be deleted ;

(*iv*) in clause (*h*), the words "out of the proceeds aforesaid" shall be deleted ; and

(*v*) to clause (*i*), the words "or otherwise in his official capacity" shall be added.

Insertion of a new section 121A in Act III 1909.

7. After section 121 of the said Act, the following section shall be inserted, namely :—

Transfer of certain funds to Provincial Government.

"121A. The sums and securities standing to the credit of—

[2][(*a*)] (*1*) the Unclaimed Dividend (Capital) Account less the sum of Rs. 50,000,

(*2*) the Unclaimed Dividend Revenue Account less the sum of Rs. 25,000,

(*3*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account less the sum of Rs. 20,000, and

(*4*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account,

with the High Court of Judicature, Bombay, [3][and

(*b*) (*1*) the Unclaimed Dividend (Capital) Account less the sum of Rs. 7,500,

(*2*) the Unclaimed Dividend (Revenue) Account less the sum of Rs. 3,000, and

(*3*) the Official Assignee's Fund, with the Court of the Judicial Commissioner of Sind,

are hereby transferred to the [4][[5][State] Government] :

Provided that the revenues of the [4][[5][State] Government] shall be liable to make good all sums required to meet the claims upon the said sums and securities of persons entitled thereto."

Amendment of section 122 of Act III of 1909.

8. In section 122 of the said Act—

(*i*) for the word "prescribed" the words "determined by the [4][[5][State] Government]" shall be substituted ; and

(*ii*) for the words "the Government of India", the words "[4][[5][State] Government]" shall be substituted.

Amendment of section 123 of Act III of 1909.

9. In section 123 of the said Act, for the words "Government of India" where they occur at both the places and for the words "Governor General in Council" the words "[4][[5][State] Government]" shall be substituted.

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[1] Clause (*d*) was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

[2] This letter and brackets were inserted by Bom. 3 of 1935, s. 2 (*iv*).

[3] These words, letter, figures and brackets were substituted for the words "are hereby transferred to the Local Government" by Bom. 3 of 1935, s. 2 (*iv*).

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

10. After section 123 of the said Act, the following sections shall be inserted, namely :— Insertion of new sections 123A and 123B in Act III of 1909.

" 123A. The [1][[2][State] Government] may, [3][out of sums and securities standing to the credit of the accounts of the Official Assignee, Bombay, specified in clauses (*1*) and (*2*)] from time to time after consultation with the High Court of Judicature, Bombay,— [2][State] Government to determine the amount to be set apart and the sums to be transferred out of certain accounts [3][relating to the office of the Official Assignee, Bombay].

(*1*) determine the amount to be set apart out of—

(*i*) the Unclaimed Dividend (Capital) Account, and

(*ii*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account,

for meeting the claims of creditors or debtors made within the period specified in section 122, and

(*2*) transfer sums to the revenues of the [1][[State] Government] from—

(*i*) the Unclaimed Dividend (Capital) Account,

(*ii*) the Unclaimed Dividend Revenue Account,

(*iii*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account, and

(*iv*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account."

123B. [*Provincial Government to determine the amount to be set apart and the sums to be transferred out of certain accounts relating to the office of the Official Assignee, Karachi.*] *Omitted by the Adaptation of Laws Order, 1950.*

11. The provisions of the said Act specified in Schedule I hereto annexed shall be repealed. Repeal.

SCHEDULE I.

(*Provisions repealed.*)

(Section 11.)

Sections 61, 68 (*2*), 84 and 87 (*3*).

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These words, figures and brackets were inserted by Bom. 3 of 1935, s. 2 (*v*) (*1*).

THE BOMBAY LIVE-STOCK IMPROVEMENT ACT, 1933.

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BOMBAY ACT No. XXII OF 1933.[1]

[THE BOMBAY LIVE-STOCK IMPROVEMENT ACT, 1933.]

[*1st December 1933*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.
" " " " " " of Laws Order, 1950.
Amended by Bom. 35 of 1950.
" " " 50 of 1954.

An Act to provide for the improvement of live-stock.

WHEREAS it is expedient to provide for the improvement of live-stock in the manner herein provided ; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A and the previous sanction of the Governor required under section 80C of the Government of India Act, have been obtained for the passing of this Act ; It is hereby enacted as follows :—

5 & 6 Geo. V, C 61.

1. This Act may be called the Bombay Live-stock Improvement Act, 1933. Short title.

2. (*a*) Section 1 and this section extend to the whole of the Presidency of Bombay. Extent.

(*b*) On a written application made—

(*i*) by the district local board with the previous concurrence of [2][the officer empowered in this behalf by the State Government], or

(*ii*) by [3][such officer] with the previous concurrence of the district local board, [4][the [5][State] Government] may, by notification in the [6][*Official Gazette*], direct that the remaining provisions of this Act shall extend to any village in respect of which the application has been made.

(*c*) Section 1 and this section shall come into force at once and the remaining provisions of this Act shall come into force in any village to which the said provisions shall have been extended under sub section (*b*) on such date as [4][the [5][State] Government] may by notification in the [6][*Official Gazette*] appoint.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) " Cow " includes a heifer ;

(*2*) [7]* * * * * *

(*3*) " Licence " means a licence granted under section 6 ;

(*4*) " Live-stock officer " means an officer or person appointed or invested with powers under section 4 ;

(*5*) " Prescribed," with its grammatical variations, means prescribed by rules ;

(*6*) " Rules " means rules made under section 23 ;

(*7*) " Village " means a village as defined in the Bombay Land Revenue Code, 1879 ; and

Bom. V. of 1879.

(*8*) " A person is said to keep a bull," if such person owns the bull or has the bull in his possession or custody.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Part V, pp. 1000-1001; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVIII.

[2] These words were substituted for the words " the Director of Agriculture " by Bom. 35 of 1950, s. 2.

[3] These words were substituted for the words " The Director of Agriculture ", *ibid.*

[4] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word " Provincial " by Adaptation of Laws Order, 1950.

[6] The words " *Official Gazette* " were substituted for the words, " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[7] Clause (2) was deleted by Bom. 35 of 1950, s. 3.

Live-stock Officer.

[1][4. The State Government may, by notification in the *Official Gazette*, appoint any officer to be a live-stock officer and assign to such officer such powers and duties under this Act, as it may deem fit.]

Prohibition for keeping a bull for breeding purposes.

5. No person shall keep a bull which has attained the prescribed age except under and in accordance with the terms, conditions and restrictions of a licence granted under section 6.

Grant of licences.

6. Every licence for the keeping of a bull shall be granted by a live-stock officer authorised by [2][the [3][State] Government] by general or special order in this behalf in such form, for such period, and subject to such terms, conditions and restrictions as may be prescribed :

Provided that no fee shall be charged for the grant of a licence.

Refusal to grant or revocation of licence.

7. (*1*) Subject to rules, the live-stock officer authorised to grant the licence may refuse to grant or may revoke a licence, if in the opinion of such authority, the bull appears to be—

(*a*) of defective or inferior conformation and likely to beget defective or inferior progeny ; or

(*b*) permanently affected with any contagious or infectious disease ; or

(*c*) permanently affected with any other disease rendering the bull, unsuitable for breeding purposes.

(*2*) The live stock officer granting a licence may also revoke a licence if in the opinion of such officer there be any breach of any of the terms or conditions of the licence.

(*3*) No person shall be entitled to any compensation for the revocation of a licence under sub-section (*1*) or (*2*).

(*4*) If a licence is revoked under sub-section (*1*) or (*2*), the live-stock officer revoking the licence shall give notice to that effect to the owner or the person stated therein to be the owner of the bull and any such notice given in respect of a licence shall state the grounds for the revocation.

(*5*) [4]* * * * *

Grant of duplicate licence.

8. When the live-stock officer granting the licence is satisfied that a licence granted under section 6 has been lost or destroyed, such officer may, subject to such conditions as may be prescribed, issue to the holder of the licence a duplicate thereof, and thereupon all the provisions of this Act with respect to the licence shall apply to the duplicate as if it were the original licence.

Duration of licence.

9. A licence granted in respect of a bull shall remain in force until—

(*a*) the period specified therein expires, or

(*b*) it is revoked under this Act, or

(*c*) the bull dies or is castrated in the prescribed manner.

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[1] Section 4 was substituted for original by Bom. 35 of 1950, s. 4.

[2] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] Sub-section (*5*) was deleted by Bom. 35 of 1950, s. 5.

Inspection of bulls.

10. Any person who keeps a bull shall at any reasonable time, either at the place where the bull is for the time being or at any other reasonable place, submit the bull for inspection by any live-stock officer when required by such officer to do so and render all reasonable assistance to that officer for the purpose of inspection.

Power to order castration of bulls.

11. (*1*) A live-stock officer may, by notice served in the prescribed manner, require that any bull which has attained the prescribed age at the date when the notice is served and in respect of which no licence is for the time being in force under this Act, shall be castrated in a prescribed manner within one month after the notice takes effect. Such castration shall, if the owner or other person who keeps the bull requires, be performed or caused to be performed by the live-stock officer free of charge.

(*2*) For the purpose of this section, a notice shall be served on the owner of the bull or on any other person who keeps the bull.

[1](*3*)* * * * * *

Duty to produce licence.

12. It shall be the duty of any person who for the time being keeps a bull, if a licence is in force in respect of the bull, to produce the licence—

(*a*) within a reasonable time on demand made by a live-stock officer or [2][any other officer] authorized by general or special order by [3][the [4][State] Government] in this behalf in any place where the bull is for the time being,

(*b*) before a cow is served by a bull on demand made by the person in charge of the cow.

Penalty for keeping a bull in contravention of this Act or rules or without or in contravention of licence.

13. Whoever in contravention of this Act or any rule or order made under this Act or of any terms, conditions or restricitions of licence keeps a bull shall, on conviction, be punishable with fine which may extend to Rs. 25.

Penalty for neglect or failure to comply with notice under section 7 or 11.

14. Whoever neglects or fails to comply with a notice served in accordance with section 7 or 11 shall, on conviction, be punishable with fine which may extend to Rs. 25.

Penalty for neglect or failure to comply with requisition under section 10 or 12.

15. Whoever neglects or fails to submit a bull for inspection when required by a live-stock officer for inspection under section 10 or whoever fails to produce a licence when required to do so in accordance with the provisions of section 12 shall, on conviction, be punishable with fine which may extend to Rs. 25.

Power of live-stock officer to castrate.

16. (*1*) Whenever an offence under section 15 has been committed, or whenever any bull has not been castrated in compliance with the notice served under section 11, it shall be competent to a live-stock officer to castrate or cause to be castrated

[1] Sub-section (*3*) was deleted by Bom. 35 of 1950, s. 6.

[2] These word were substituted for the words "an officer of the Agricultural or Veterinary Department", *ibid*, s. 7.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

in the prescribed manner, the bull in respect of which such offence was committed or such notice was served, as the case may be. Such castration shall be performed or caused to be performed by a live-stock officer free of charge.

(*2*) It shall also be competent to a live-stock officer to seize any bull, if the person in whose ownership, possession or custody it is, for the time being, is not known or cannot be ascertained after an inquiry in the prescribed manner. On such seizure the live-stock officer may, if he is of opinion that such bull has attained the prescribed age or is suffering from any of the defects or disease specified in section 7, direct that the said bull shall be—

(*a*) castrated in the prescribed manner, and

(*b*) sold by public auction or sent to a pinjrapol: provided that if the owner of the said bull appears within fifteen days of such seizure and proves to the satisfaction of the live-stock officer that the said bull is of his ownership,—

the said bull—

(*i*) if not sold by public auction, or

(*ii*) if sent to a pinjrapol,

shall be delivered to such owner on payment of the costs, charges and expenses incurred for the maintenance of the said bull and determined in the prescribed manner, or

(*iii*) if sold by public auction, the proceeds of such sale shall be paid to such owner after deducting therefrom the costs, charges, and expenses incurred for the maintenance and sale of the said bull and determined in the prescribed manner.

Power of live-stock officer to inspect or mark a bull or to enter premises.

17. For the purposes of this Act, a live-stock officer shall have power at all reasonable times—

(*a*) to inspect any bull,

(*b*) to mark any bull with any prescribed mark in the prescribed manner,

(*c*) to enter any premises or other place in the prescribed manner where he has reason to believe that a bull is kept.

Officers bound to assist live-stock officers.

18. All village officers, all village servants useful to [1][the [2][State] Government] and all officers of the departments of revenue, [3][agriculture, animal husbandry and veterinary science or of such other department as the State Government may direct] shall be bound—

(*a*) to give immediate information to a live-stock officer of the commission of any offence, or the intention or preparation to commit any offence punishable under this Act which may come to their knowledge;

(*b*) to take all reasonable measures in their power to prevent the commission of any such offence which they know or have reason to believe is about to be committed; and

(*c*) to assist any live-stock officer in carrying out the provisions of this Act.

Cognizance of offences under the Act.

19. No Court shall take cognizance of any offence under this Act, except on a complaint made by a live-stock officer or any person authorised by such officer in that behalf.

Live-stock officer to be public servant.

20. Every live-stock officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This portion was substituted for the words "agriculture and Veterinary" by Bom. 35 of 1950, s. 8

Protection of persons acting in good faith and limitation of suits and prosecutions.

21. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules.

(*2*) No suit shall be instituted against [1][the [2][Government]] and no prosecution or suit shall lie against any live-stock officer in respect of anything done or alleged to have been done, in pursuance of this Act, unless the suit or prosecution has been instituted within four months from the date of the act complained of.

Revision.

22. [3][The [4][State] Government] may call for and examine the record of any order or the proceedings of any live-stock officer for the purpose of satisfying themselves as to the legality and propriety of any order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to [3][the [4][State] Government] that any order or proceedings so called for should be modified, annulled or reversed, they may pass such order as they may deem fit.

Power of [4][State] Government to make rules.

23. (*1*) [3][The [4][State] Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) under section 4, prescribing the powers and duties to be exercised and performed by a live-stock officer and the assignment of such powers or duties,

(*b*) under section 5, prescribing the age of a bull after which it shall not be kept without a licence,

(*c*) under section 6, prescribing the form of, the manner in which, the terms, conditions and restrictions on which, a licence shall be granted, transferred or renewed,

(*d*) under section 7, prescribing the conditions subject to which a licence may be revoked,

(*e*) under sections 7 and 11, prescribing the manner in which notice shall be served,

(*f*) under section 8, prescribing the conditions subject to which a duplicate of a licence may be granted,

(*g*) under sections 11 and 16, prescribing the manner in which a bull shall be castrated, and the manner in which inquiry regarding the ownership of a bull shall be made, and the costs, charges and expenses for the maintenance and sale of a bull shall be determined,

(*h*) under section 17, prescribing the manner and form in which a bull shall be marked and the manner in which a live-stock officer shall enter any premises or other place.

(*3*) Rules made under this section shall be subject to the condition of previous publication in the [5][*Official Gazette*].

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[1] The words " the Crown " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[3] The words " the Provincial Government " were substituted for the word " Government ", by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

(4) Rules made under this section shall be laid [1][before each of the [2][Houses] of the [3][State] Legislature] at the session [4][thereof] next following and shall be liable to be modified or rescinded by a resolution [5][in which both the [2][Houses] concur] and such rule shall after notification in the [6][*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [7][the [3][State] Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [7][the [3][State] Government] may, by notification in the [6][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

Power of [3][State] Government to apply the provisions of this Act to buffalo-bulls.

24. [7][The [3][State] Government] may, by notification in the [6][*Official Gazette*], direct that all or any of the provisions of this Act which shall have been extended to any village under section 2 shall apply to buffalo-bulls in such village from the date specified in such notification and thereupon the reference to bulls and cows in the provisions of this Act so applied shall be construed as references to buffalo-bulls and buffalo-cows respectively and this Act shall apply accordingly.

Validation of Acts of Director of Animal Husbandry and Veterinary Science.

[8][24A. Notwithstanding anything contained in this Act, all things done by or on behalf of the Director of Animal Husbandry and Veterinary Science purporting to act in exercise of the powers conferred on the Director of Agriculture under this Act before the date on which the Bombay Live-stock Improvement (Amendment) Act, 1950, came into force, shall be deemed to be and always to have been validly done as required by or under this Act and shall not be deemed to be invalid or called in question merely on the ground that such thing was done by or on behalf of the said Director of Animal Husbandry and Veterinary Science before the said date.]. Bom. XXXV of 1950.

25. [*Saving.*] *Deleted by Bom. 50 of 1954, s. 2.*

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[1] The words " before each of the Chambers of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Chambers " by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word " Provincial " *ibid.*

[4] The word " thereof " was substituted for the words " of the said Council ", by the Adaptation of Indian Laws Order in Council.

[5] The words " in which both the Chambers concur " were substituted for the words " of the said Council ", *ibid.*

[6] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ". *ibid.*

[7] The words " the Provincial Government " were substituted for the word " Government ", *ibid.*

[8] Section 24A was inserted by Bom. 35 of 1950, s. 9.

THE BOMBAY TRADE DISPUTES CONCILIATION ACT, 1934.

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MO-II Bk H 957—33

*BOMBAY ACT No. IX OF 1934.[1]

[THE BOMBAY TRADE DISPUTES CONCILIATION ACT, 1934.]

[*9th October 1934*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.
Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to make further provision for the prevention and settlement of trade disputes by conciliation and for certain other purposes.

WHEREAS it is expedient to make further provision for the prevention and settlement of trade disputes by conciliation and for certain other purposes hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act ;

5 & 6 Geo. V, c. 61

It is hereby enacted as follows :—

1. This Act may be called the Bombay Trade Disputes Conciliation Act, 1934. Short title.

2. (*1*) Section 1 and this section extend to the whole of the Bombay Presidency. The remaining provisions of this Act extend to the City of Bombay and the Bombay Suburban District and the [2][3][State] Government] may further by notification in the [4][*Official Gazette*], direct that the said provisions shall extend to such other area as may be specified in the notification. Extent, commencement and application.

(*2*) Section 1 and this section shall come into force at once. The [2][3][State] Government] may, by notification in the [4][*Official Gazette*], direct that the remaining provisions of this Act shall come into force in any area to which the said provisions extend or may have been extended under sub-section (*1*), on such date as may be specified in the notification.

(*3*) This Act shall apply, in the first instance, to the textile trade or industry. The [2][3][State] Government] may, by notification in the [4][*Official Gazette*] direct that the provisions of this Act shall apply to such other trade or industry and in such area as may be specified in the notification.

3. In this Act, unless there is anything repugnant to the subject or context,— Definitions.

(*a*) " Commissioner of Labour " means the officer appointed for the time being to be the Commissioner of Labour ;

(*b*) " Conciliator " includes the Chief Conciliator or a Special or Assistant Conciliator appointed under this Act ;

(*c*) " Conciliation proceeding " means a proceeding held by a Conciliator under this Act ;

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[1] For statement of Objects and Reasons *see Bombay Government Gazette*, 1934, Pt. V, pp. 91-95 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1934, Vol. XL.

[2] The words " Provincial Government " were substituted for the words " Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", by the Adaptation of Indian Laws Order in Council.

*This Act shall cease to apply in a local area to any industry in respect of which the provisions of the Bombay Industrial Relations Act, 1946 (Bom. 11 of 1947), have been brought into force in such local area (*vide* s. 121 of Bom. 11 of 1947).

(*d*) "Delegate" means a person appointed under section 9 to represent a party to a trade dispute in a conciliation proceeding and includes the Labour Officer acting as a delegate to represent workmen in such proceeding;

(*e*) "employer" includes any body of persons, whether incorporated or not and any managing agent of an employer;

(*f*) "Labour Officer" means an officer appointed to perform the duties of a Labour Officer under this Act;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "trade dispute" means any dispute or difference between employers and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person;

(*i*) words and expressions not defined in this Act, but defined in the [1]Trade Disputes Act, 1929, shall have the meaning assigned to them in that Act. VII 1929.

Appointment of Conciliators.

4. (*1*) The Commissioner of Labour shall be the ex-officio Chief Conciliator.

(*2*) The [2][[3]State] Government] may, by notification in the [4][*Official Gazette*], appoint any person to be a special Conciliator for such area as may be specified in the said notification.

(*3*) The [2][[3]State] Government] may, by notification in the [4][*Official Gazette*], appoint any person to be an Assistant Conciliator for such area as may be specified in the said notification.

Labour Officers.

5. (*1*) The [2][[3]State] Government] may, by notification in the [4][*Official Gazette*], appoint any person to be a Labour Officer for such area as may be specified in the said notification.

(*2*) The Labour Officer shall exercise the powers conferred and perform the duties imposed on him by or under this Act. It shall be the duty of the Labour Officer to watch the interests of workmen with a view to promote harmonious relations between employers and workmen and to take steps to represent the grievances of workmen to employers for the purpose of obtaining their redress.

(*3*) For the purpose of exercising such powers and performing such duties, the Labour Officer may, after giving reasonable notice, enter any place used for the purpose of any trade or industry to which this Act applies and shall be entitled to inspect and call for documents, relevant to the grievances of workmen, in the possession of any employer or workman, as the Labour Officer deems necessary. The Labour Officer may, for the same purpose, enter after giving reasonable notice any premises provided by an employer for the purpose of residence of his workmen.

(*4*) All particulars contained in or information obtained from any document inspected or called for under sub-section (*3*) shall if the person in whose possession the document was so required, be treated as confidential.

Jurisdiction of Conciliators.

6. (*1*) The Chief Conciliator shall exercise powers and perform duties under this Act throughout the Presidency except in the area for which a Special Conciliator has been appointed under this Act.

(*2*) An Assistant Conciliator shall be subordinate to, and shall exercise such powers and perform such duties as may be delegated to him by, the Chief Conciliator or Special Conciliator, as the case may be.

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[1] See now the Industrial Disputes Act, 1947 (XIV of 1947).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the words "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

Application or report for settlement of trade disputes.

7. If any trade dispute exists or is apprehended,—

(*a*) either or both parties to the dispute may apply, whether separately or conjointly, or

(*b*) the Labour Officer may make a report,

to the Conciliator for a settlement of the dispute.

Conciliator to give notice to parties.

8. (*1*) If the Conciliator,

(*a*) in any area for which a Labour Officer is appointed, on receipt of an application or report under section 7, or

(*b*) elsewhere, on receipt of an application under section 7 or upon his own knowledge or information,

is satisfied that a trade dispute exists or is apprehended, he may cause notice to be given to the parties to the dispute to appear before him at such time and place as may be specified in the notice.

A copy of such notice shall be sent to the Labour Officer.

(*2*) Notice to the parties shall require them to appoint, within such time as may be specified in the notice, delegates to represent them in the conciliation proceeding.

(*3*) Notice under this section shall be in the prescribed form and shall be served in the prescribed manner.

Delegates.

9. (*1*) On receipt of notice under section 8, the parties to a trade dispute shall within the time specified in the notice or within such time as may be fixed by the Conciliator in this behalf appoint delegates in such manner as the Conciliator may direct :

Provided that when a party to the dispute is a single individual, such party may appoint himself as a delegate :

Provided further that the Labour Officer may be appointed as a delegate on behalf of the workmen.

(*2*) The number of delegates appointed by a party to a trade dispute shall not exceed three :

Provided that when, in the opinion of the Conciliator, such party to the dispute is divided into two or more groups, the Conciliator may allow each of such groups to appoint separate delegates not exceeding three :

Provided, further, that the total number of delegates appointed by all the groups forming the party shall not exceed twelve.

(*3*) If an employer who is a party to a trade dispute has failed or refused to appoint any delegate within the time specified in the notice or within such further time as may be fixed by the Conciliator, such employer shall, on conviction, be punishable with fine which may extend to Rs. 100 and with further fine which may extend to Rs. 100 for every day on which such failure or refusal continues after the date of the first conviction.

Explanation.—Where such employer is a company registered under the [1]Indian VII of 1913. Companies Act, 1913, employer shall mean the managing agent or managing director of such company or any other officer of the company authorised to represent such company in the prescribed manner.

(*4*) No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under sub-section (*3*).

[1] See Central Acts.

(*5*) No criminal court shall take cognizance of any offence under sub-section (*3*) except with the previous sanction of the [1][Provincial Government].

(*6*) Where workmen who are parties to a trade dispute have failed or refused to appoint any delegate within the time specified in the notice or within such further time as may be fixed by the Conciliator, the Labour Officer shall act as the delegate on behalf of such workmen.

Disqualification from being a delegate.

10. (*1*) A person shall be disqualified from being appointed or acting as a delegate, if such person—

(*a*) is less than twenty-one years of age; or

(*b*) is an uncertificated bankrupt or an undischarged insolvent.

(*2*) A person shall be disqualified from acting as a delegate, if such person is not, in the opinion of the Conciliator, after the conciliation proceedings have started, a fit and proper person to be a delegate.

(*3*) The decision of the Chief Conciliator or the Special Conciliator, as the case may be, that a person is disqualified from being appointed or acting as a delegate shall be final.

Conciliation proceeding.

11. (*1*) On the date specified in the notice under sub-section (*1*) of section 8 or on such other date as may be fixed by the Conciliator on his motion or at the request of any of the parties to a trade dispute, the Conciliator shall hold the conciliation proceeding in the prescribed manner.

(*2*) A party to such trade dispute shall be represented in a conciliation proceeding by delegates. The Labour Officer, even if not appointed or acting as delegate, shall be entitled to be present at such proceeding.

(*3*) It shall be the duty of the Conciliator to endeavour to bring about a settlement of the trade dispute and for this purpose the Conciliator shall inquire into the dispute, and all matters affecting the merits thereof and the right settlement thereof and in so doing may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute and may adjourn the conciliation proceeding for any period sufficient in his opinion to allow the parties to agree upon the terms of the settlement.

Procedure and powers of a Conciliator in conciliation proceeding.

12. (*1*) A Conciliator shall, subject to the provisions of this Act, follow in conciliation proceeding such procedure as may be prescribed.

(*2*) For the purpose of holding a conciliation proceeding, the Conciliator shall have the same powers as are vested in courts under the Code of Civil Procedure, 1908, in trying a suit in respect of the following matters, viz. :— V of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects; and

(*c*) issuing commissions for the examinaton of witnesses; and shall have such further powers as may be prescribed.

(*3*) If a party to a trade dispute giving any information or producing any document in a conciliation proceeding makes a request in writing to the Conciliator that such information or the contents of such document may be treated as confidential, the Conciliator shall direct that such information or document be treated as confidential.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*4*) The Conciliator may, if he thinks fit, permit the information or contents of the document in respect of which a request has been made under sub-section (*3*) to be disclosed to the other party to the trade dispute :

Provided that the Conciliator shall not permit such information or the contents of such document to be so disclosed to the other party to the trade dispute, if it is shown to his satisfaction that such disclosure is likely to affect the interests of the party making the request under sub-section (*3*) adversely in any matter not connected with the settlement of the said dispute.

(*5*) Save as provided in sub-section (*4*), the Conciliator or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document directed to be treated as confidential under sub-section (*3*), without the consent in writing of the party making the request under the said sub-section.

(*6*) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution for an offence under section 14 or under the Indian Penal Code. XLV of 1860

13. (*1*) If a settlement of a trade dispute is arrived at in a conciliation proceeding, a memorandum of such proceeding and settlement shall be drawn up in the prescribed form by the Conciliator and signed by the delegates. The Conciliator shall send a report of such settlement together with a copy of the memorandum to the [1][Provincial Government]. Settlement and Report.

(*2*) If no such settlement is arrived at, the Conciliator shall, as soon as possible, after the close of the conciliation proceeding, send a full report regarding the trade dispute to the [1][Provincial Government], setting forth the particulars of the proceeding and the steps taken by him for the purpose of ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, a settlement could not be made.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*) any information or contents of any document shall not be included in the memorandum of proceedings, settlement or report drawn up or made under sub-section (*1*) or (*2*), if such information or the contents of such document is not permitted by the Conciliator to be disclosed under sub-section (*4*) of section 12.

(*4*) The record of the conciliation proceeding held and settlement made under this section shall be maintained in the prescribed manner.

14. (*1*) If the Conciliator or any prson present at or concerned in a conciliation proceeding wilfully discloses any information or contents of any document in contravention of section 12, he shall, on complaint made by the party who made the request under sub-section (*4*) of section 12, be punishable with fine which may extend to one thousand rupees. Penalty for disclosing confidential information.

(*2*) No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this section

(*3*) No criminal court shall take cognizance of any offence under this section except with the previous sanction of the [1][Provincial Government].

15. Any application, document or other instrument made or produced in the course of any proceeding under this Act shall be exempt from stamp duty, court-fee or registration fee payable under any law for the time being in force. Exemption of documents from stamp duty, court-fee and registration fees.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Penalty.

16. If any person instigates or incites others not to take part in a conciliation proceeding, or otherwise obstructs or instigates or incites others to obstruct a Conciliator in the discharge of his duties under this Act or molests or abets the molestation of others, with intent to prevent them from taking part in a conciliation proceeding, such person shall, on conviction, be punishable with imprisonment of either description which may extend to six months or with fine or with both.

Explanation.—For the purpose of this section, a person is said to molest any person who—

(*a*) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or persistently follows him from place to place, or interferes with any property owned or used by him, or deprives him of or hinders him in the use thereof, or

(*b*) loiters or does any similar act at or near the place where a conciliation proceeding is held, in such a way and with intent that any person may thereby be deterred from entering or approaching such place.

Power of entry.

17. It shall be lawful for a Conciliator at any time and from time to time when necessary for the purposes of exercising the powers conferred and performing the duties imposed by or under this Act to enter any premises used for the purpose of any trade or industry to which this Act applies.

Conciliator and Labour Officer to be public servants.

18. A Conciliator and a Labour Officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection to persons acting in good faith.

19. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Rules.

20. (*1*) The [1][Provincial Government] may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) prescribing the powers and duties of the Labour Officer ;

(*b*) prescribing the powers and duties which may be delegated to Assistant Conciliators ;

(*c*) prescribing the form and manner in which notice shall be given under section 8 ;

(*d*) prescribing the manner in which the officer of a company shall be authorised to represent the company under section 9 ;

(*e*) regulating the procedure in which a conciliation proceeding shall be held under section 11 ;

(*f*) determining the scale of fees at which witnesses shall be paid for appearance in a conciliation proceeding under section 11 ;

(*g*) specifying the powers which may be exercised by the Conciliator for the purpose of a conciliation proceeding under section 11 ;

(*h*) prescribing the form in which and the particulars which shall be mentioned in the memorandum of a settlement under section 13 ;

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*i*) prescribing the manner in which the record of a conciliation proceeding and settlement shall be maintained under section 13 ; and

(*j*) providing for any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the [1][[2][State] Government], necessary for giving effect to the provisions of this Act.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [3][*Official Gazette*].

(*4*) Rules made under this section shall be laid [4][before each of the [5][Houses] of the [2][State] Legislature] at the session [6][thereof] next following and shall be liable to be modified and rescinded by a resolution [7][in which both the [5][Houses] concur] and such rule shall after notification in the [3][*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when in the opinion of the [1][[2][State] Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][[2][State] Government] may be notification in the [3][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

Saving of the provisions of the Trade Disputes Act, 1929.

21. Nothing in this Act shall affect any of the provisions of the Trade Disputes Act, 1929, and no conciliation proceeding shall be held relating to any matter or trade dispute which is referred to and is pending before, the Court of Inquiry or Board of Conciliation under the said Act.

VII of 1929.

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[1]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[5] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.

[6] The word "thereof" was substituted for the words "of the said Council", by the Adaptation of Indian Laws Order in Council.

[7] The words "in which both the Chambers concur were" substituted for the words "of the said Council", *ibid.*

THE BOMBAY DEVADASIS PROTECTION ACT, 1934.

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6. Release of land from liability for performance of service.
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BOMBAY ACT No. X OF 1934.[1]

[THE BOMBAY DEVADASIS PROTECTION ACT, 1934.]

[*15th October 1934*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 20 of 1950.

An Act to protect devadasis and to prevent the dedication of women to Hindu deities, idols, objects of worship, temples and religious institutions in the Bombay Presidency.

WHEREAS the practice of dedicating women as devadasis to Hindu deities, idols, objects of worship, temples or other religious institutions exists in the Bombay Presidency;

AND WHEREAS such practice, however ancient and pure its origin, now leads such women to a life of prostitution;

AND WHEREAS it is now desirable and expedient to end such practice, wherever it exists in the Bombay Presidency;

AND WHEREAS the previous sanction of the Governor General required by section 80A (*3*) and of the Governor required by section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. V. c. 61.

Short title and extent.

1. (*1*) This Act may be called the Bombay Devadasis Protection Act, 1934.

(*2*) It extends to the whole of the Bombay Presidency.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context:—

(*a*) "devadasi" means any unmarried woman who is dedicated to any Hindu deity, idol, object of worship, temple or other religious institution;

(*b*) "temple" means a place by whatever designation known, dedicated to, or used by, the Hindu community, or any section thereof as a place of religious worship; and

(*c*) "woman" means a female human being of any age.

Illegality of dedication of a woman as a devadasi.

3. The performance of any ceremony [2][or act] intended to dedicate or having the effect of dedicating a woman as a devadasi, whether such woman has or has not consented to the performance of such ceremony [2][or act], is hereby declared unlawful and to be of no effect, any custom or rule of Hindu Law to the contrary notwithstanding.

Marriage by a devadasi.

4. No marriage contracted by a woman shall be invalid and no issue of such marriage shall be illegitimate by reason of such woman being a devadasi, any custom or rule of Hindu Law to the contrary notwithstanding.

Penalty.

5. Whoever, other than the woman to be dedicated, performs, permits, takes part in or abets the performance of, any ceremony [3][or act] referred to in section 3, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one year, or with fine or with both.

Offence to be cognisable.

[4][**5A.** The offence punishable under section 5 shall be cognisable.

Protection of persons acting in good faith.

5B. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, pp. 1029–1031; for Report of the Select Committee, *see ibid*, 1934, Pt. V, pp. 62–65; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933 and 1934, Vols. XXXVIII, XXXIX and XL.

[2] These words were inserted by Bom. 20 of 1950, s. 2.

[3] These words were inserted, *ibid*, s. 3.

[4] Sections 5A and 5B were inserted, *ibid*, s. 4.

Release of land from liability for performance of service.

6. (*1*) Notwithstanding any adjudication or settlement made under the Bombay Rent-free Estates Act, 1852, the Exemptions from Land-revenue (No. 1) Act, 1863, and the Exemptions from Land-revenue (No. 2) Act, 1863, or rules made thereunder, or the terms of any grant made or sanad issued by [1][or on behalf of the [2] Government]], when lands are assigned as emoluments for the performance by a devadasi of any services as such, the Collector shall, after holding such inquiry as may be prescribed, by order in writing, direct that the land shall be released from liability for performance of such services and that there shall be paid by the holder of such land in lieu of such services such rent as the Collector shall determine in the prescribed manner : XI of 1852. Bom. II & VII of 1863.

Provided that if a woman who is a devadasi at the time when this Act comes into force, is the holder of such land or performs services as a devadasi for which such land is assigned and appears at such inquiry or gives notice in the prescribed manner and objects to the release of the land and the payment of rent under the provisions of this section the Collector shall pass orders directing that the land shall not be released and rent shall not be payable under this section during the lifetime of such devadasi.

(*2*) Rent directed to be paid under sub-section (*1*) shall, when the performance of such services is for the benefit of a Hindu deity, idol, object of worship, temple or other religious institution, be payable by the holder to or on account of such deity, idol, object of worship, temple or other religious institution and in other cases to [3][the State Government].

Explanation.—Land shall have the same meaning as defined in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

Power to make rules.

7. (*1*) [4][The [5][State] Government] may make rules generally for the purpose of carrying out the provisions of this Act and in particular for the manner in which the Collector shall hold an inquiry and determine the rent under section 6 and the manner in which notice of objection shall be given under the said section.

(*2*) The rules to be made under this section shall be subject to the condition of previous publication.

(*3*) Rules made under this section shall be laid [6][before each of the [7][Houses] of the [8][State] Legislature] at the session [9][thereof] next following and shall be liable to be modified or rescinded by a resolution [9][in which both the [7][Houses] concur], and such rule shall, after notification in the [10][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [4][the [5][State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of the Act, [4][the [5][State] Government] may, by notification in the [10][*Official Gazette*], declare that the modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

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[1] The words "or on behalf of the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words "the Crown for the purposes of the Province", *ibid.*

[4] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[7] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.

[8] This word was substituted for the words "of the said Council" by the Adaptation of Indian Laws Order in Council.

[9] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid.*

[10] These words were substituted for the words "*Bombay Government Gazette*", *ibid.*

The Bombay Nurses, Midwives and Health Visitors Registration Act, 1935 Bom. VII of 1935), at pages 1949–1958 has been repealed by the Bombay Nurses, Midwives and Health Visitors Act, 1954 (Bom. XIV of 1954), section 33.

THE MUSSALMAN WAKF (BOMBAY AMENDMENT) ACT, 1935.

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6. Insertion of a new heading after section 6Q.

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11. Heading after section 9A of this Act.

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14. Amendment of section 11 of XLII of 1923.

BOMBAY ACT No. XVIII OF 1935.[1]

[THE MUSSALMAN WAKF (BOMBAY AMENDMENT) ACT, 1935.]

[*23rd September 1935*]

Adapted and modified by the Adaptation of Indian Laws Order in Council
,, ,, ,, by the Adaptation of Laws Order, 1950.

An Act to amend the Mussalman Wakf Act, 1923, in its application to the Presidency of Bombay.

XLII of 1923.

WHEREAS it is expedient to amend the Mussalman Wakf Act, 1923, in its application to the Presidency of Bombay for the purposes hereinafter appearing;

5 & 6 Geo. V, c. 61.

AND WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the sanction of the Governor under section 80C of the said Act have been obtained for the passing of this Act;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Mussalman Wakf (Bombay Amendment) Act, 1935.

Heading after the preamble of XLII of 1923.

2. After the preamble of the Mussalman Wakf Act, 1923, hereinafter called the principal Act, the heading "Part I" shall be inserted.

XLII of 1923.

Amendment of section 2 of XLII of 1923.

3. In section 2 of the principal Act,—

(*a*) after clause (*b*) the following shall be inserted, namely:—

"(*bb*) 'District' means a district constituted under section 3 of the Bombay Civil Courts Act, 1869, and includes the City of Bombay."

XIV of 1869.

(*b*) after clause (*e*), the following shall be added, namely:—

"(*ee*) 'Wakf Committee' means a committee constituted under section 6L."

Heading after section 2 of XLII of 1923.

4. After section 2 of the principal Act, the heading "Part II" shall be inserted.

Insertion of Parts III to VI in XLII of 1923.

5. After section 6 of the principal Act, the following parts shall be inserted, namely:—

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 28-29; for report of the Select Committee, *see ibid.*, 91-96, 113-117 and pp. 135-136 and for proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vols. XLI and XLII.

" PART III.

Powers of the Court to call for Particulars and Statement of Accounts.

Power of court to call upon the mutawalli to submit statement.

6A. (*1*) Notwithstanding anything contained in section 3, it shall be competent to the court, on failure of a mutawalli to furnish a statement as required under the said section, to require the mutawalli to furnish, within such time as the court shall fix, a statement containing all or any of the particulars referred to in the said section, including a copy of the deed or instrument, if any, creating the wakf.

(*2*) The provisions of section 4 shall apply to a statement furnished under this section as if such statement had been furnished under section 3.

Power of court to require statement of accounts at any time.

6B. (*1*) Notwithstanding anything contained in section 5, it shall be competent to the court, on failure of a mutawalli to furnish a statement of accounts as required under the said section, to require the mutawalli to prepare and furnish, within such time as the court may fix, a statement of accounts of the nature described in the said section and for such period as the court may think fit.

(*2*) The provisions of section 6 shall apply to any statement of accounts required to be furnished under this section as if such statement of accounts were a statement of accounts furnished under section 5.

PART IV.

Powers of the Court to Enquire.

Power of court to enquire.

6C. (*1*) The court may, either on its own motion or upon the application of any person claiming to have an interest in a wakf, hold an enquiry in the prescribed manner at any time to ascertain—

(*i*) whether a wakf is a wakf to which this Act applies;

(*ii*) whether any property is the property of such wakf and whether the whole or any substantial portion of the subject matter of such wakf is situate within the local limits of the jurisdiction of the court; and

(*iii*) who is the mutawalli of such wakf.

(*2*) If it comes to the knowledge of the court that a suit has been instituted in any civil court in regard to any of the matters mentioned in sub-section (*1*), it shall stay the enquiry so far as it relates to, or is likely to be affected by, the court's findings or order in regard to such matters, until the suit is finally decided in that court.

(*3*) The court shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, it shall proceed with the enquiry in regard to such matters, if any, as may not have been decided in such suit.

(*4*) On completion of the enquiry provided for in sub-sections (*1*) and (*3*), the court shall record its findings as to the matters mentioned in the said sub-sections, except such matters as may have been decided in the aforesaid suit.

(*5*) Save as provided in this section, the court shall not, when acting under this section, try or determine any question of the title of any person claiming adversely to the wakf.

PART V.

Registration of Wakfs, Wakf Accounts and Wakf Administration Funds.

Registration of Wakfs.

6D. (*1*) The court shall, after the submission of a statement under section 3 or section 4 or section 6A and an enquiry, if necessary, held under section 6C, or merely after and enquiry held under section 6C, record, in such form as may be prescribed in a register called the Register of Wakfs, the following particulars:—

(*a*) a description of the wakf property sufficient for the identification thereof;

(*b*) the gross annual income from such property;

(*c*) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or during the period which has elapsed since the creation of the wakf, whichever period is shorter;

(*d*) the amount of the Government revenue and cesses and of all rents annually payable in respect of the wakf property;

(*e*) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (*c*) relate;

(*f*) the amount set apart under the wakf for—

(*i*) the salary of the mutawalli and allowances to individuals;
(*ii*) purely religious purposes;
(*iii*) charitable purposes;
(*iv*) any other purposes;

(*g*) the name of the mutawalli; and

(*h*) such other particulars as may be prescribed.

(*2*) Statements, if any, furnished under sections 3, 4 and 6A shall be filed with the said register of wakfs.

Amendment of entries in Register of Wakfs.

6E. (*1*) When any change occurs in any of the particulars recorded in the Register of Wakfs, the mutawalli shall, within three months of the occurrence of such change, report to the court such change in the prescribed form, accompanied by the prescribed fee. The provisions of sections 3 and 4 shall, so far as may be, apply to any such statement.

(*2*) For the purpose of verifying the correctness of the entries in the Register of Wakfs or ascertaining any change which may occurred in such register, the court may hold an enquiry in the prescribed manner. The provisions of section 6C shall, so far as may be, apply to any such inquiry.

(*3*) If the court, after receiving a report under sub-section (*1*) and holding an enquiry, if necessary, under sub-section (*2*), or merely after an enquiry held under sub-section (*2*), is satisfied that a change has occurred in any of the particulars recorded in the Register of Wakfs with regard to a wakf, it shall amend in the prescribed manner the entry or entries affected by such change and shall file the report furnished under sub-section (*1*) along with statement, if any, relating to the said wakf filed under section 3.

Entries in the Register of Wakfs and findings recorded under section 6C to be final subject to section 6G.

6F. The entries made by the court in the Register of Wakfs and the findings recorded under section 6C shall, subject to the provisions of section 6G, be final for the purposes of this Act.

Making or amendment of entries in Register of Wakfs by order of Court.

6G. A civil court of competent jurisdiction deciding any question relating to any wakf may direct that the court shall make such entries or amendments of entries in the Register of Wakfs relating to the said wakf as are consequential upon its decision, and the court shall make such entries or amendments of such entries accordingly.

Maintenance of accounts and their audit.

6H. (*1*) Every mutawalli of a wakf in respect of which an entry has been recorded in the Register of Wakfs shall keep regular accounts of all moveable and immovable property received, and of all payments and alienations made and incumbrances created by him on behalf of the wakf of which he is the mutawalli. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

(*2*) The account shall be balanced on the thirty-first day of March in each year, and shall be examined and audited annually or at such other intervals, and in such manner as may be prescribed and by the persons referred to in section 6.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers and other documents and records in the possession and under the control of the mutawalli:

Provided that, if it is proved to the satisfaction of the court that the gross annual income of any particular wakf is less than two hundred rupees, the court may by order in writing exempt such wakf from the provisions of this section.

Annual contribution from wakfs.

6I. Every wakf shall, for the purpose of meeting the charges and expenses incidental to the registration, superintendence, administration and control of wakfs, the maintenance of the registers of wakfs, the scrutiny and audit of accounts of wakfs, the institution and defence of suits and proceedings relating to wakfs, and generally carrying into effect the purposes of this Act, be liable to pay to the Wakf Administration Fund of the district concerned annually such contribution, on such date and in such manner as may be prescribed:

Provided that the [1][Provincial Government] may, by rules made in this behalf, exempt from the provisions of this section any particular wakf or class of wakfs.

Wakf Administration Fund.

6J. For each district there shall be created a fund to be called the Wakf Administration Fund of the district concerned, and there shall be placed to the credit thereof the following sums, namely:—

(*a*) any fee which may be levied under this Act,

(*b*) contributions under section 6I,

(*c*) any sums received by the Wakf Administration Fund from private sources,

(*d*) any sums allotted by [2][any Government] or by any local authority to the Wakf Administration Fund.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "any Government" were substituted for the word "Government", *ibid.*

Application of Wafk Administration Fund.

6K. The Wakf Administration Fund of a district shall be under the control and management of the court and shall be applicable to the payment of charges for and expenses incidental to the registration, superintendence, administration and control of wakfs, the maintenance of the Register of Wakfs, the scrutiny and audit of accounts of wakfs, the institution and defence of suits and proceedings relating to wakfs, and generally carrying into effect the purposes of this Act.

PART VI.

Supervision and Control.

Constitution and appointment of Wakf Committee.

6L. (*1*) There shall be constituted in each district a wakf committee to advise and assist the court in all matters relating to the registration, superintendence, administration and control of wakfs.

(*2*) The Committee shall consist of:—

(*a*) the members of [1][Parliament and the State Legislature]

(*b*) two members elected in the prescribed manner by the mutawallis of all wakfs in the district registered under the Act,

(*c*) two members elected in the prescribed manner by the members of each district local board in the district professing the Mussalman faith from among their number,

(*d*) one member elected in the prescribed manner by the members professing the Mussalman faith of each municipality in the district constituted under the Bombay District Municipal Act, 1901,

Bom. III of 1901.

(*e*) two members elected in the prescribed manner by the members professing the Mussalman faith of each municipality, in the district constituted under the City of Bombay Municipal Act, 1888,[2]* * * * or the Bombay Municipal Boroughs Act, 1925, and

Bom. III of 1888. Bom. XVII of 1933. Bom. XVIII of 1925.

(*f*) such other members not exceeding one-fourth of the total number of the members of the Committee as the [3][[4]State] Government] may nominate:

Provided that no person who does not ordinarily reside in the district or does not profess the Mussalman faith shall be eligible to be a member of the Committee.

Functions of Wakf Committee.

6M. (*1*) It shall be competent to the court to refer at any time to the Wakf Committee or any three or more members thereof, for advice, opinion enquiry, report or recommendation, with suchin time as the court may direct, any matter relating to the registration, superintendence, administration and control of wakfs, and in particular any matter relating to—

(*a*) the conduct of a mutawalli or a trustee in the administration of a wakf or his fitness to continue as a mutawalli or a trustee,

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[1] These words were substituted for the words "the Indian and Provincial Legislature" by the Adaptation of Laws Order, 1950.

[2] The words and figures "the City of Karachi Municipal Act, 1933" were omitted, *ibid.*

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*b*) the settlement, cancellation or alteration of a scheme for the administration of a wakf, or

(*c*) the application of the funds of a wakf or any surplus thereof.

(*2*) When the court has referred any of the matters mentioned in sub-section (*1*) to a wakf committee or any members thereof for advice, opinion, enquiry, report or recommendation, and the committee or the members thereof, as the case may be, have, either unanimously or by a majority, made their recommendation in relation to the matter referred to them, the court may pass orders as it thinks fit after giving due consideration to such recommendation—

(*i*) suspending, removing or dismissing a mutawalli or trustee,

(*ii*) appointing a new mutawalli or trustee,

(*iii*) settling, cancelling or altering a scheme for the administration of a wakf,

(*iv*) directing the application, investment or deposit of the funds of a wakf or any surplus thereof in a particular manner or to a particular purpose,

(*v*) generally for carrying out the purposes of the Act :

Provided that nothing in this section shall be deemed to authorize the court to pass any order which is inconsistent with the objects and purposes of the wakf :

Provided further that no order under this section shall be passed to the prejudice of any mutawalli or trustee without giving such mutawalli or trustee an opportunity to be heard.

(*3*) For the performance of any of the duties under sub-section (*2*) the Wakf Committee or any members thereof to whom the court has referred any matter for advice, opinion, enquiry, report, or recommendation, the committee or such members thereof may by order in writing require—

(*a*) the production of any document necessary for the purpose ;

(*b*) the attendance of any person for the purpose of giving evidence or for the production of any document referred to in clause (*a*).

(*4*) The provisions of sub-sections (*2*) and (*3*) of section 6C shall so far as may be, apply to any inquiry under sub-section (*1*) or (*2*).

Court's power to authorize members of Wakf Committee to institute suits, etc.

6N. Notwithstanding anything contained in section 92 of the Code of Civil Procedure, 1908, it shall be competent to the court, after such enquiry as it may think fit, (*a*) to authorize any one or more of the members of a Wakf Committee to institute or defend any suit or proceeding for the purposes of the protection or recovery of the property of a wakf or for the application of the property of a wakf to any public, charitable or religious purpose, and (*b*) to allocate from the Wakf Administration Fund such sums as may, in the opinion of the court, be necessary for the aforesaid purpose. V of 1908.

Inspection of wakf property, records and accounts.

6O (*1*) It shall be competent to the court to direct one or more members of the Wakf Committee to undertake the inspection, in the prescribed manner, of the property, records and accounts of any wakf and to report to the court, within such time as the court may direct, the result of such inspection.

(*2*) It shall be competent to the court to employ upon such terms and conditions as may be prescribed such persons as may in the opinion of the court be necessary for carrying out the purposes of this Act and to pay them such remuneration from the Wakf Administration Fund as may be prescribed.

6P. It shall be competent to the court at any time to order a special audit of the accounts of a wakf by an accountant possessing the prescribed qualifications and to order the cost of such audit to be paid by the mutawalli from the income of the property of the wakf or out of the Wakf Administration Fund. Court's power to order special audit.

[1]6Q. There shall be published annually on such date as the [2][Provincial Government] may determine in the [3][*Official Gazette*] and in the principal vernacular of the district in a newspaper circulating therein a list of wakfs and a statement of the sums standing to the credit of the Wakf Administration Fund, under the signature of the court and in such form as the [2][Provincial Government] may prescribe." Publication of lists of wakfs.

6. After section 6Q inserted by this Act, into the principal Act, the heading " Part VII " shall be inserted. Insertion of a new heading after section 6Q.

7. In section 7 of the principal Act after the word and figure " section 4 ", the words and figures " section 6A or section 6B or section 6C or section 6E " shall be inserted. Amendment of section 7 of XLII of 1923.

8. In section 8 of the principal Act,— Amendment of section 8 of XLII of 1923.

(*a*) after the word and figure " section 4 " the words and figures " or section 6A or section 6C or section 6E " shall be inserted; and

(*b*) after the word and figure " section 5 " the word[8] and figures " or section 6B or section 6C " shall be inserted.

9. In section 9 of the principal Act,— Amendment of section 9 of XLII of 1923.

(*a*) after the word and figure " section 4 ", the words and figures " or section 6A or section 6C or section 6E " shall be inserted;

(*b*) after the word and figure " section 5 ", the words and figures " or section 6B or section 6C " shall be inserted;

(*c*) after the word and figure " section 6 ", the words and figures " or section 6H or section 6P or any entry in the Register of Wakfs or any statement, notice, intimation, report, accounts or any document filed under this Act " shall be inserted.

10. After section 9 of the principal Act, the following shall be inserted, namely :— Insertion of new section after section 9 of XLII of 1923.

V'of 1908

" 9A. (*1*) The provisions of the Code of Civil Procedure, 1908, relating to— Provisions of Code of Civil Procedure to apply.

(*a*) the proof of facts by affidavits,

(*b*) the enforcing of the attendance of any person and his examination on oath,

(*c*) the enforcing of the production of documents, and

(*d*) the issuing of commissions

shall apply to all proceedings held by the court under this Act and provisions relating to the service of summonses shall apply to the service of notices thereunder.

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[1] The words " if the Provincial Government so directs " have been inserted after the words " *Official Gazette and* " by Bom. 10 of 1944, s. 2, read with Bom. 25 of 1948, s. 3.

[2] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[3] The words " *Official Gazette* " were substituted for the words " Local Official Gazette ", *ibid.*

(*2*) The provisions of the said Code relating to the execution of decrees shall, so far as they are applicable, apply to the execution of orders passed by the court under this Act."

Heading after section 9A of this Act.

11. After section 9A inserted by this Act, into the principal Act, the heading " Part VIII " shall be inserted.

Amendment of section 10 of XLII of 1923.

12. In section 10 of the principal Act—

(*a*) after the word and figure " section 4 ", the words and figures " or section 6A or section 6C or section 6E " shall be inserted ;

(*b*) after the word and figure " section 5 ", the words and figures " or section 6 or section 6C " shall be inserted ;

(*c*) after the word " accounts " where it occurs for the first time, the words, figure and letter " or who is required by section 6H to keep regular accounts " shall be inserted ;

(*d*) after the word " document " where it occurs for the second time, the words " or to keep regular accounts " shall be inserted ;

(*e*) after the word " statement " where it occurs for the forth time the words " or keeps accounts " shall be inserted.

Insertion of new sections after section 10 of XLII of 1923.

13. After section 10 of the principal Act the following shall be inserted namely :—

Penalty for non-compliance with any other order.

" 10A. (*1*) If any person fails to comply with any order passed by the Court or by the Wakf Committee or any member thereof under or in pursuance of the provisions of this Act, such person shall, if such failure to comply is not punishable under any of the sections of this Act, be on conviction punishable with fine which may extend to one thousand rupees.

(*2*) A Criminal Court may, in passing an order, of conviction for an offence sub-section (*1*), specify the period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him, and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified :

Provided that, if the person failing to comply with any direction issued by such court satisfies such court that there is good reason for his failure to do so and applies for an extension of the period specified under this section, such court may if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

Cognizance of offences.

10B. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the Court given in the prescribed manner.

(*2*) No Criminal Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try an offence under this Act.

Prosecution of, and suits against, persons acting in good faith.

10C. No suit or prosecution or other proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

10D. All sums due under this Act shall be recoverable as arrears of land revenue ". Recovery of sums due under this Act.

14. (*1*) In sub-section (*2*) of section 11 of the principal Act— Amendment of section 11 of XLII of 1923.

(*a*) in clause (*a*) after the words and figure " section 3 ", the words and figures " or under section 6A or section 6C " shall be inserted ;

(*b*) for clause (*b*) the following shall be substituted, namely :—

" (*b*) the manner in which notice to be published under section 4 and the fees to be charged upon application made to the court under sub-section (*1*) of section 4 or under section 6A or section 6B or section 6C " ;

(*c*) in clause (*c*) after the word and figure " section 5 ", the words and figures " or section 6B or section 6C " shall be inserted ;

(*d*) in clause (*d*) after the word and figure " section 6 ", the words and figures " or section 6H or section 6P " shall be inserted ;

(*e*) in clause (*e*), after the brackets and letter " (*e*) " the words " the manner of inspection and " shall be inserted ;

(*f*) after clause (*f*), the following shall be inserted, namely :—

" (*f1*) the manner in which subject to the provisions of section 9A an inquiry shall be held by the Court and the Wakf Committee under section 6C or 6M and the manner in which the parties shall be represented in such inquiry and the costs of such inquiry shall be borne,

(*f2*) the manner in which the Register of Wakfs shall be prepared and maintained under section 6D,

(*f3*) the form in which a change in any of the particulars recorded in the Register of Wakfs shall be reported and the amount of fee to accompany such report and the manner in which the inquiry shall be held and the entries in the Register of Wakfs shall be amended under section 6E,

(*f4*) the form in which the accounts shall be prepared, kept and furnished, the particulars to be entered therein, and the manner in which, and the interval at which such accounts shall be audited under section 6H,

(*f5*) the amount of contribution, the date on which and the manner in which it shall be paid and exemptions granted under section 61,

(*f6*) the appointment and remuneration of auditors appointed under the Act,

(*f7*) the management, custody, investment and disbursement of the Wakf Administration Fund,

(*f8*) the purpose for which a Wakf Administration Fund shall be applied under section 6K,

(*f9*) the number of members who shall constitute a Wakf Committee, the period of office of a Wakf Committee and the manner in which such committee shall hold its meetings and the procedure to be followed at their meetings,

(*f10*) the manner in which the inspection of the property, records and accounts of a wakf shall be carried out, the sum which shall be paid in respect of the costs of the members of the Wakf Committee undertaking such inspection, the terms and conditions on which persons shall be employed and the remuneration which shall be paid to such persons, under section 6O,

(*f11*) the qualifications of an accountant appointed under section 6P,

(*f12*) the form in which a list of wakfs shall be published under section 6Q."

(2) After sub-section (2) of section 11 of the principal Act, the following new sub-section shall be added, namely :—

" (3) Rules made under this section shall be laid [1][before each of the [2][Houses] of the [3][State] Legislature] at the session [4][thereof] next following and shall be liable to be modified or rescinded by a resolution [5][in which both the [2][Houses] concur] and such rule shall after notification in the [6][*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when in the opinion of the [7][[3][State] Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [7][[3][State] Government] may by notification in the [6][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded."

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[1] The words " before each of the Chambers of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Chambers " by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word " Provincial ", *ibid.*

[4] The word " thereof " was substituted for the words " of the said Council ", by the Adaptation of Indian Laws Order in Council.

[5] The words " in which both the Chambers concur " were substituted for the words " of the said Council ", *ibid.*

[6] The words " *Official Gazette* " were substituted for the words " Local Official Gazette ", *ibid.*

[7] The words " Provincial Government " were substituted for the words " Local Government " *ibid.*

THE IDENTIFICATION OF PRISONERS (BOMBAY SECOND AMENDMENT) ACT, 1935.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Amendment of section 3 of Act XXXIII of 1920.
3. Amendment of section 4 of Act XXXIII of 1920.

BOMBAY ACT No. XXI OF 1935.[1]

[THE IDENTIFICATION OF PRISONERS (BOMBAY SECOND AMENDMENT) ACT, 1935.]

[*1st October 1935.*]

An Act to amend the Identification of Prisoners Act, 1920, in its application to the Presidency of Bombay.

XXX. III of 1920. 5 & 6 Geo. V, c. 61. WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920, in its application to the Presidency of Bombay, for the purpose hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title. and extent.

1. (*1*) This Act may be called the Identification of Prisoners (Bombay Second Amendment) Act, 1935.

(*2*) It extends to the whole of the Presidency of Bombay.

Amendment of section 3 of Act XXXIII of 1920.

XXX. III of 1920. Bom. IV of 1902. **2.** In clause (*a*) of section 3 of the Identification of Prisoners Act, 1920, hereinafter called the said Act, after the word "punishable" the words and figures "under section [2]121 of the City of Bombay Police Act, 1902, or of any other offence punishable" shall be inserted.

3. [*Amendment of section 4 of Act XXXIII of 1920.*] *This amendment stands repealed in view of substitution of new section 4 by Bom. 15 of 1948, s. 2.*

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, p. 180; and for Proceedings in Council, *see* Bombay Legislative Council Debates, Vol. XLII.

[2] Section 121 of the City of Bombay Police Act, 1902, has been repealed by Bom. 23 of 1945 read with Bom. 53 of 1947, s. 2.

THE BOMBAY PUBLIC TRUSTS REGISTRATION ACT, 1935.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent und operation.
2. Application and saving.
3. Definitions.
4. Appointment of Registrars.
5. Obligation to furnish particulurs relating to public trusts.
6. Power of Registrar to hold inquiry.
7. Register of Public Trusts.
8. Amendment of entries in Register of Public Trusts.
9. Stay of inquiry or entry in Register.
10. Entries in Register of Public Trusts to be final subject to section 11.
11. Amendment of Register by order of Court.
12. Maintenance of accounts and their audit.
13. Inspection and grant of copies.
14. Annual contribution from public trusts.
15. Public Trusts Administration Fund.
16. Application of Public Trusts Administration Fund.
17. Special audit.
18. Publication of list of public trusts.
19. Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.
20. Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.
21. Penalty for failure to comply with the order of Registrar.
22. Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.
23. Cognizance of offences.
24. Registrars to be public servants.
25. Prosecution of persons acting in good faith.
26. Recovery of sums due under this Act.
27. Power of Provincial Government to make rules.

BOMBAY ACT No. XXV OF 1935.[1]

[THE BOMBAY PUBLIC TRUSTS REGISTRATION ACT, 1935.]

[*19th November 1935*]

Amended by Bom. 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 10 of 1944*.
,, ,, ,, 17 of 1945†.
,, ,, ,, 65 of 1948.
Adapted and modified by the Adaptation of Laws Order, 1950.

An Act for the registration of trusts created or existing for a public purpose of a religious or charitable nature and for the audit and filing of accounts of such trusts with a view to ensuring the better management thereof.

WHEREAS it is expedient to provide for the registration of trusts created or existing for a public purpose of a religious or charitable nature and for the audit and filing of accounts of such trusts with a view to ensuring the better management thereof; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80-A and of the Governor required under section 80-C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. (*1*) This Act may be called the Bombay Public Trusts Registration Act, 1935. Short title, extent and operation.

(*2*) It extends to the whole of the Presidency of Bombay.

(*3*) [2][The [3][State] Government] may, by notification in the [4][*Official Gazette*], direct that this Act shall come into force on such date as may be appointed in the notification.

2. (*1*) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Hindu community or any section of such community and, having an annual gross income of not less than Rs. 1,000. Application and saving.

(*2*) Subject to the provisions of sub-section (*3*), [2][the [3][State] Government], on a motion of [5][either or both of the [6][Houses] of the [3][State] Legislature] or otherwise, may, after previous publication by notification in the [4][*Official Gazette*], direct that all or any of the provisions of this Act shall apply to any other public trust or class of public trusts.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 130-134, for report of the Select Committee, *see ibid.*, pp. 225-236, 253-257, 261-262 and 306-309 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vols. XLII and XLIII.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazett*", by the Adaptation of Indian Laws Order in Council.

[5] The words "either or both of the Chambers of the Provincial Legislature" were substituted for the words "the Bombay Legislative Council", *ibid.*

[6] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.

* This Act was re-enacted by Bom. 25 of 1948, s. 3.

† This Act was repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

(*3*) The provisions of this Act shall not apply to public trusts to which the Mussalman Wakf Act, 1923, applies [1][or which are administered by local authorities]. XLII of 1923.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context—

(*1*) " Manager " means any person who for the time being either alone or in association with some other person or persons administers the property of any public trust.

(*2*) " Prescribed " means prescribed by rules made under this Act.

(*3*) " Public trust " means an express or constructive trust created or existing for public purposes of a religious or charitable nature.

(*4*) " Registrar " means an officer appointed under section 4 to exercise the powers and perform the duties of a Registrar of Public Trusts.

(*5*) " Rules " means rules made under section 27.

(*6*) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act. II of 1882.

Appointment of Registrars.

4. [2][The [3][State] Government] may appoint officers belonging to the judicial service not below the rank of a subordinate Judge of the second class or a Judge of a Court of Small Causes as Registrars of Public Trusts for the purposes of this Act and may define the district or area within which each of them shall exercise his powers and perform his duties.

Obligation to furnish particulars relating to public trusts.

5. (*1*) Every manager of the property of a public trust shall, in the case of—

(*i*) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act, and

(*ii*) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust,

submit to the Registrar within whose jurisdiction the whole or any substantial portion of the subject matter of such trust is situate a statement in the prescribed form and accompanied by the prescribed fee, containing the following particulars :—

(*a*) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee,

(*b*) the description of the trust property, both moveable and immovable, sufficient for the identification thereof, and the approximate value thereof,

(*c*) the gross average annual income of such property estimated on the income of the three years preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(*d*) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (*c*) relate,

(*e*) any other particulars as may be prescribed.

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[1] These words were added by Bom. 65 of 1948, s. 2.

[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) A copy of the deed or instrument creating the public trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

(*3*) Such statement shall be signed by the manager or his agent specially authorised in this behalf.

(*4*) Every person signing the statement shall verify it in the manner prescribed.

Power of Registrar to hold inquiry.

6. (*1*) A Registrar may either on his own motion or upon the petition of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain—

(*i*) whether a trust is a public trust,

(*ii*) whether any property is the property of such trust,

(*iii*) whether the whole or any substantial portion of the subject matter of the trust is situate within his jurisdiction,

(*iv*) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of trustee of such trust,

(*v*) the origin, nature and object of such trust,

(*vi*) the amounts of gross average annual income and expenditure of such trust, and

(*vii*) any other such particulars as may be prescribed under sub-section (*1*) of section 5.

(*2*) If it comes to the Registrar's knowledge that a suit has been instituted in any Court in regard to any of the matters mentioned in sub-section (*1*), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Court's findings or orders in regard to such matters, until the suit is finally decided in that Court.

(*3*) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(*4*) On completion of the enquiry provided for in sub-sections (*1*) and (*3*), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matters as may have been decided in such suit.

V of 1908.

(*5*) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

(*a*) enforcing the attendance of any person and examining him on oath,

(*b*) compelling the production of documents and material objects,

(*c*) issuing commissions for the examination of witnesses,

(*d*) proof of facts by affidavits.

(*6*) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

Register of Public Trusts.

7. The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6, record entries in such form as may be prescribed in a register called the Register of Public Trusts and shall file the statement, if any.

Amendment of entries in Register of Public Trusts.

8. (*1*) When any change occurs in any of the particulars recorded in the Register of Public Trusts, the manager shall, within three months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompanied by the prescribed fee. The provisions of sections 5 and 6 shall, so far as may be, apply to such statement.

(*2*) For the purpose of verifying the correctness of the entries in the Register of Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Register, the Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such inquiry.

(*3*) If the Registrar, after receiving a report under sub-section (*1*) and holding an enquiry, if necessary, under sub-section[1] [(*2*),] or merely after an enquiry held under sub-section (*2*), is satisfied that a change has occurred in any of the particulars recorded in the Register of Public Trusts with regard to a public trust, he shall amend in the prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-section (*1*) along with the statement, if any, relating to the said trust filed under section 5.

Stay of inquiry or entry in Register.

9. (*1*) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public trust particulars of which have been recorded in the Register of Public Trusts by the Registrar of any other district or area.

(*2*) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, [2][the Provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under section 6 or 8 or act under section 7 in regard to such trust.

Entries in Register of Public Trusts to be final subject to section 11.

10. Entries made by the Registrar in the Register of Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act.

Amendment of Register by order of Court.

11. A Civil Court of competent jurisdiction deciding any question relating to any registered public trust shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Public Trusts relating to the said trust in accordance with its decision.

Maintenance of accounts and their audit.

12. (*1*) Every manager of a public trust in respect of which an entry has been recorded in the Register of Public Trusts under section 6 shall keep regular accounts of all moveable and immovable property, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust

[1] The figure "2" was substituted for the figure "1" by Bom. 24 of 1936, s. 2, Schedule.
[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

property and of all payments and alienations made, on behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

(*2*) The accounts shall be balanced each year on the thirty-first day of March, or such other day, as may be fixed by the Registrar in any particular case, and shall be examined and audited annually in such manner and [1][by a Chartered accountant within the meaning of the Chartered Accountants Act, 1949, or by a firm whereof all the partners practising in India are Chartered accountants within the meaning of the said Act] or by such persons as may be prescribed.

XXX. VIII of 1949.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(*4*) Within six months after the thirty-first day of March, or such other day, as may be fixed by the Registrar in any particular case, of the year for which the accounts are balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto :

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note under this section.

Exception.—Nothing in this section shall apply—

(*1*) to any public trust.

(*a*) which is governed by the [2]Religious Endowments Act, 1863,

XX of 1863.

(*b*) in respect of which a scheme has been settled under section 92, Civil Procedure Code, 1908, or

V of 1908.

(*2*) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator-General or the Official Trustee.

Inspection and grant of copies.

13. Subject to such conditions and on payment of such fee, as may be prescribed, the Registrar shall on application by—

(*a*) any person who appears to him to have an interest in any entry or portion thereof in the Register of Public Trusts or any statement, notice, intimation, account, audit note or any other document filed under this Act, or

(*b*) any other person permitted by the Registrar in this behalf—

(*i*) allow such person inspection of the entries in such Register or of such document, or

(*ii*) furnish such person with copies certified under his hand, of any entry or portion thereof in such Register or of any of such documents.

Annual contribution from public trusts.

14. Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed :

[1] This portion was substituted for the original portion beginning with the words " by a person who is the holder of a certificate " and ending with the words " throughout British India " by the Adaptation of Laws Order, 1950.

[2] *See* Central Acts.

Provided that the contributions prescribed under this section shall be fixed at rates in proportion to the gross income of the public trust but in accordance with a progressively diminishing scale.

Explanation.—Progressively diminishing scale shall, for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

Public Trusts Administration Fund.

15. For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area, namely :—

(*a*) any fees which may be levied under sections 5, 8 or 13,

(*b*) contributions under section 14,

(*c*) any sums received by the Public Trusts Administration Fund from private sources,

(*d*) any sums allotted by [1][any Government] or by any local authority to the Public Trusts Administration Fund.

Explanation.—For the purpose of this section [2][the Greater Bombay] shall be deemed a district.

Application of Public Trusts Administration Fund.

16. The Public Trusts Administration Fund of a district or any area as created under section 15 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

Special audit.

17. It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order the cost of such audit to be paid by the trustee from the income of the property of the public trust or out of the Public Trusts Administration Fund.

Publication of list of public trusts.

18. Every Registrar shall publish annually under his signature, in the [3][*Official Gazette*] and [4][if the [5][State] Government so directs] in a newspaper published in the principal vernacular of, and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Public Trusts Administration Fund, in such form and on such date as [6][the [5][State] Government] may prescribe.

Penalty for failure to furnish or for furnishing false statements under sections 5, 6 or 8.

19. If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

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[1] The words "any Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the original by Bom. 17 of 1945, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by Bom. 10 of 1944, s. 3, read with Bom. 25 of 1948, s. 3.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.

20. If any manager fails or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

Penalty for failure to comply with the order of Registrar.

21. If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act, such person shall on conviction be punishable with fine which may extend to Rs. 100.

Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.

22. Any Court may, in passing an order of conviction and sentence for any of the offences under section 19, 20 or 21, specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified :

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failare to do so and applies for extension of the period specified under this section, the Court may if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

Cognizance of offences.

23. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the Registrar given in the prescribed manner within whose jurisdiction the whole or a substantial portion of the subject matter of the public trust in respect of which the offence is alleged to have been committed is situate.

(*2*) No Court inferior to that of a Presidency Magistrate or of a Magistrate of First Class shall try an offence under this Act.

Registrars to be public servants.

XLV of 1860.

24. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Prosecution of persons acting in good faith.

25. No suit or prosecution or other proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Recovery of sums due under this Act.

26. All sums due under this Act shall be recoverable as arrears of land revenue.

Power of Provincial Government to make rules.

27. (*1*) [1][The Provincial Government] may make rules for the purpose of carrying in to effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely :—

(*a*) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5 (*1*).

[1] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*b*) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5 (*1*), clause (*e*).

(*c*) Prescribing the manner in which the statement furnished to the Registrar shall be verified under section 5 (*4*).

(*d*) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(*e*) Prescribing the form of Register of Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8 (*3*).

(*f*) Prescribing the form of the statement reporting a change and the fee payable along with such statement under section 8.

(*g*) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12 (*1*).

(*h*) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (*2*) and 17.

(*i*) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12 (*4*).

(*j*) Prescribing the fee payable for the inspection of the Register of Public Trusts under section 13.

(*k*) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such inspection under section 13.

(*l*) Prescribing the fee payable for obtaining certified copies of entries in the Register of Public Trusts and of documents filed with the Registrar under section 13.

(*m*) Prescribing the amount of contribution payable by a public trust and the date and the manner of such payment under section 14.

(*n*) Prescribing the objects in addition to those specified in the said section, to which the Public Trusts Administration Fund shall be applied under section 16.

(*o*) Prescribing the manner in which the Registrar may give sanction under section 23.

(*p*) Any other matter not specifically provided for in this Act, but which in the opinion of [1][the Provincial Government] is necessary for carrying into effect the provisions of this Act:

Provided that the rules made under clauses (*a*), (*f*), (*j*) and (*m*) shall provide for such adjustment from time to time of the rates of fees payable under sections 5, 8 and 13 and the contributions payable under section 14 in respect of the public trusts in any district or area as not ordinarily to leave any surplus in the Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of [1][the Provincial Government] for payment of the charges and expenses referred to in section 16.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [1][*Official Gazette*].

(*4*) Rules made under this section shall be laid [2][before each of the [3][Houses] of the [4][State] Legislature] at the session [5][thereof] next following and shall be liable to be modified or rescinded by a statutory motion [6][carried in both the [3][Houses]] and such rules shall after notification in the [7][*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [8][the [4][State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [8][the [4][State] Government] may, by notification in the [1][*Officia Gazette*] declare that the modification or rescission shall have no effect and therleupon the rules shall remain in force as if they had not been modified or rescinded.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council," *ibid.*

[3] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.

[4] This word was substituted for the word "Provincial", *ibid.*

[5] The word "thereof" was substituted for the words "of the said Council", by the Adaptation of Indian Laws Order in Council.

[6] The words "carried in both the Chambers" were substituted for the words "of the said Council", *ibid.*

[7] The words "*Official Gazette*" were substituted for the words "*Local Official Gazette*", *ibid.*

[8] The words "the Provincial Government" were substituted for the words "Government," *ibid.*

BOMBAY ACT No. XXIX OF 1935.[1]

[THE BOMBAY CRIMINAL PROCEDURE (ELECTIONS OFFENCES) AMENDMENT ACT, 1935.]

[*30th November 1935.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Presidency of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Presidency of Bombay, for the purposes hereinafter appearing;

5 & 6 Geo. V, c. 61. And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

Short title. and extent.

1. (*1*) This Act may be called the Bombay Criminal Procedure (Elections Offences) Amendment Act, 1935.

(*2*) It shall apply to the whole of the Presidency of Bombay.

Amendment of section 196 of Act V of 1898.

V of 1898. **2.** In ection 196 of the Code of Criminal Procedure, 1898, in its application to the Presidency of Bombay, after the word and figures "section 127" the words and figures "and section 171F so far as it relates to the offence of personation" shall be inserted.

Amendment of Schedule to Act V of 1898.

3. In Schedule II to the same Code—

XLV of 1860. (*a*) in the entry relating to section 171F of the Indian Penal Code, the words "and personation" shall be deleted;

(*b*) after the said entry so amended, the following shall be inserted, namely :—

	Personation at an election.	May arrest without warrant.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.

XLV of 1860. (*c*) in the third column in the entry relating to section 171G of the Indian Penal Code, for the word "Ditto", the words "Shall not arrest without warrant" shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 259-260; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vol. XLIII.

THE BOMBAY MOTOR VEHICLES TAX ACT, 1935.

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SCHEDULE I.

SCHEDULE II.

BOMBAY ACT No. XXXIV OF 1935.[1]

[THE BOMBAY MOTOR VEHICLES TAX ACT, 1935.]

[*6th February 1936*]

Amended by Bom. 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 13 of 1939.

,, ,, ,, 3 of 1940.*

,, ,, ,, 9 of 1942.*

,, ,, ,, 46 of 1947.

,, ,, ,, 5 of 1949.

,, ,, ,, 49 of 1949.

Adapted and modified by the Adaptation of Laws Order, 1950

Amended by Bom. 56 of 1950.

,, ,, ,, 16 of 1952.

,, ,, ,, 24 of 1953.

,, ,, ,, 16 of 1954.

,, ,, ,, 19 of 1955.

An Act to provide for the imposition of a tax on motor vehicles in the Bombay Presidency.

5 & 6 Geo. V, c. 61. WHEREAS it is expedient to impose a tax on motor vehicles in the Bombay Presidency and to provide for certain other purposes hereinafter appearing; And whereas the previous sanction of the Governor-General required under sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required under section 80C of the said Act have been obtained for the passing of this Act : It is hereby enacted as follows :—

Short title, commencement and extent.

1. (*1*) This Act may be called the Bombay Motor Vehicles Tax Act, 1935.

(*2*) It shall come into force on the 1st day of April 1936.

(*3*) It extends to the whole of the Presidency of Bombay.[2]* *

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 286–289; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vol. XLIII.

[2] The words "excluding Sind" were omitted by the Adaptation of Laws Order, 1950.

*This Act was re-enacted by Bom. 40 of 1947, s. 2.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

[1][(*1*) "Certificate of taxation" means a certificate issued under sub-section (*3*) of section 3 showing the rate at which the tax is leviable and the periods for which the tax has been paid;]

[2][(*2*) 'Fleet owner' means a person who is the registered owner of a fleet of 100 or more transport vehicles used or kept for use in the State ;]

(*3*) "Local authority" includes a cantonment authority within the meaning of the Cantonments Act, 1924 ;

[3]* * * * * * * * II of 1924.

(*5*) "Prescribed" means prescribed by rules made under this Act ;

(*6*) "Presidency" means the Presidency of Bombay [4]* * ;

[3]* * * * * * *

(*8*) "Quarter" means a period of three months commencing from the 1st day of January, the 1st day of April, the 1st day of July or the 1st day of October in each year and the term "quarterly" shall be construed accordingly ;

[5][(*9*) 'Registering authority', in the case of a fleet owner means the State Transport Officer ;]

(*10*) "Registered owner" means the person in whose name a motor vehicle is registered under the [6][Motor Vehicles Act, 1939] ; IV of 1939.

(*11*) "Schedule" means a schedule appended to this Act ;

[7][(*11A*) 'State Transport Officer' means any officer appointed by the State Government to perform the functions of a State Transport Officer under this Act and includes a Deputy State Transport Officer appointed by the State Government ;]

(*12*) "Tax" means a tax imposed under this Act ;

[8][(*12A*) "Tax Token" means a token issued under sub-section (*3*) of section 3 showing that the amount of tax has been paid and includes a fresh tax token issued in place of the original token under sub-section (*2*) of section 6.

[3]* * * * * * *

(*14*) "Year" means a financial year ;

[9][(*15*) Words and expressions used but not defined in this Act shall have the meaning assigned to them in the Motor Vehicles Act, 1939]. IV of 1939.

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[1] This clause was substituted for the original by Bom. 3 of 1940, s. 2(*i*), read with Bom. 40 of 1947, s. 2.
[2] Clause (*2*) was inserted by Bom. 19 of 1955, s. 2 (*1*).
[3] Clauses (*4*), (*7*) and (*13*) were deleted by Bom. 3 of 1940, read with Bom. 40 of 1947, s. 2, s. 2 (*ii*).
[4] The words "excluding Sind" were omitted by the Adaptation of Laws Order, 1950.
[5] Clause (*9*) was inserted by Bom. 19 of 1955, s. 2 (*2*).
[6] These words and figures were substituted for the words and figures "Indian Motor Vehicles Act, 1914," by Bom. 3 of 1940, s. 2 (*iii*).
[7] Clause (*11A*) was inserted by Bom. 19 of 1955, s. 2 (*3*).
[8] This clause was inserted, *ibid.*, s. 2, read with Bom. 40 of 1947, s. 2.
[9] This clause was inserted, *ibid.*, s. 2 (*v*).

Levy of tax.

3. (*1*) As from the 1st day of April 1936 a tax at the rates fixed by the [1][[2][State] Government] by notification in the [3][*Official Gazette*] not exceeding the maximum rates specified in the First Schedule shall be levied on all motor vehicles used or kept for use in the Presidency :

[4][Provided that in the case of motor vehicles kept by a dealer in, or manufacturer of such vehicles for the purposes of trade. the tax shall only be levied and paid by such dealer or manufacturer on vehicles permitted to be used on roads in the manner prescribed by rules made under the Motor Vehicles Act, 1939.]

IV of 1939.

[5][(*1A*) The registered owner of, or any person having possession or control of, a motor vehicle of which the certificate of registration is current shall, for the purposes of this Act, be deemed to use or keep such vehicle for use in the State except during any period for which the registering authority has certified in the prescribed manner that the motor vehicle has not been used or kept for use.]

(*2*) The tax leviable under sub-section (*1*) shall be paid in advance by every registered owner of, or any person having possession or control of, a motor vehicle—

(*i*) annually at the rates fixed by the [1][[2][State] Government] under sub-section (*1*), or

(*ii*) for one or more quarters on payment for each such quarter at one-fourth of the annual rates referred to in clause (*i*) *plus* six and one-fourth per centum, or

(*iii*) for any period less than a quarter, expiring on the last date of any quarter at the quarterly rates referred to in clause (*ii*) less one-twelfth of the annual rate of the tax for every complete calendar month which has expired during such quarter :

[6]* * * * *

[7][Provided [6]* that in calculating the amount due under this sub-section for any period less than one year, the fraction of a rupee less than 8 annas shall be counted as 8 annas and the fraction of a rupee exceeding 8 annas shall be counted as a rupee.]

[8][(*3*) When the tax leviable under this section in respect of any motor vehicle is paid, the registering authority shall issue to the person paying the tax a token in the prescribed form showing that such tax has been paid. The registering authority shall also issue to such person a certificate of taxation showing the rate at which the tax is leviable and the period for which the tax has been paid in respect of such motor vehicle or if a certificate of taxation has been already issued in respect of such motor vehicle, cause an entry about such payment to be made in such certificate of taxation.]

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.
[4] This proviso was added by Bom. 46 of 1947, s. 2(*i*).
[5] Sub-section (*1A*) was inserted by Bom. 16 of 1954, s. 2.
[6] The proviso and the word "further" were deleted, *ibid.*, s. 2(*ii*).
[7] This proviso was inserted by Bom. 3 of 1940, s. 3(*i*) (*b*), read with Bom. 40 of 1947, s. 2.
[8] This clause was inserted, *ibid*, s. 3(*ii*).

4. [*Grant or renewal of registration certificates.*] *Repealed by Bom. 3 of 1940, s. 4, read with Bom. 40 of 1947, s. 2.*

5. (*1*) [1][When any person has paid the annual tax in advance in respect of a motor vehicle and has produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette] firstly, in respect of the quarter or quarters which may not have commenced when the [2][tax token and the certificate of taxation] are surrendered, of a sum equal to the difference between the sum paid as annual tax and the sum which would have been payable at the quarterly rate, for every quarter which has expired when, and the quarter in which, the [2][tax token and the certificate of taxation] are surrendered and secondly, in respect of any unexpired portion of a quarter in accordance with the provisions of sub-section (*2*) of this section as if he had paid the tax for that quarter at the quarterly rate. Refund of tax.

(*2*) [3][When any person has paid the quarterly tax in advance in respect of a motor vehicle and has produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette] for each complete calendar month in the period for which such tax has been paid and which has not commenced on the date on which the [2][tax token and the certificate of taxation] are surrendered, of a sum equal to one-twelfth of the annual rate of the tax leviable in respect of such vehicle.

(*3*) When any person has paid the tax in advance in respect of a motor vehicle, he shall be entitled, on the production of a certificate signed by a registering authority stating that an application for the registration [4]* * * of such vehicle has been refused, to a refund of the tax paid.

[5][(*4*) When a motor vehicle in respect of which the tax has been paid is altered in such manner as to cause it to become a vehicle in respect of which the tax is leviable at a lower rate, the person who has paid such tax shall be entitled on the production of a certificate signed by a registering authority stating that the vehicle has been so altered to a refund of a sum equal to the difference between the amount which would be refundable to him in accordance with the provisions of sub-sections (*1*) and (*2*) on the surrender of the tax token and the certificate of taxation and the amount of the tax leviable on such vehicle at the lower rate.

(*5*) Notwithstanding anything contained in sub-sections (*1*) and (*2*) a person shall be entitled to a refund of the tax as provided in the said sub-sections on the production of a certificate signed by a registering authority stating that such authority is satisfied that—

(*a*) such person has, for reasons beyond his control, not been able to surrender the tax token or the certificate of taxation, and

(*b*) the vehicle in respect of which the refund of the tax is claimed shall not be used in any public place during the period for which such refund is claimed.]

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[1] This portion was substitutde for the original by Bom. 46 of 1947, s. 3 (*i*).

[2] These words were substituted for the words "certificate of registration and licence card" and "certificate and licence card" by Bom. 3 of 1940, read with Bom. 40 of 1947, s. 2.

[3] This portion was substituted for the original by Bom. 46 of 1947, s. 3(*ii*).

[4] The words "or for the renewal of registration" were deleted by Bom. 3 of 1940 s. 5 (*ii*), read with Bom. 40 of 1947, s. 2.

[5] Sub-sections (*4*) and (*5*) were inserted, *ibid.*, s. 5 (*iii*).

Refund of tax in respect of motor vehicles not used in public places.

[1][5A. When any person has paid the tax in respect of a motor vehicle, he shall be entitled to a refund of the same as provided in sub-sections (*1*) and (*2*) of section 5 on the production of a certificate signed by a registering authority stating that such authority is satisfied that the vehicle in respect of which the refund of the tax is claimed has not been used in any public place during the period for which such refund is claimed.]

Declaration by person having possession or control of a motor vehicle.

6. (*1*) Every registered owner of, or person who has possession or control of, a motor vehicle used or kept for use in the Presidency shall fill up and sign a declaration in the prescribed form, stating the prescribed particulars and shall deliver within the prescribed time the declaration so filled up and signed to a registering authority and shall pay to the registering authority the tax which he appears by such declaration to be liable to pay in respect of such vehicle.

(*2*) When a motor vehicle used or kept for use is [2][altered or is proposed to be used in such manner] as to render the registered owner or person who has been in possession or control of such vehicle liable to the payment of an additional tax under section 7, [3][such owner or person] shall fill up and sign an additional declaration in the prescribed form, showing the nature of the alteration made [4][or of such use] and containing the prescribed particulars and shall deliver such additional declaration so filled up and signed together with the [5][tax token and the certificate of taxation] in respect of the motor vehicle so altered [6][or proposed to be so used] to a registering authority and shall pay to the registering authority the additional tax payable under section 7 which he appears by such additional declaration to be liable to pay in respect of such vehicle. [7][On receipt of such additional tax, the registering authority shall issue to such owner or person a fresh tax token in place of the original token and shall cause an entry about such payment to be made in the certificate of taxation.]

[8][(*3*) Such owner or person shall, at the time of making payment of the tax under sub-section (*1*) or of the additional tax under sub-section (*2*), produce before the registering authority a valid certificate of insurance in respect of the vehicle complying with the requirements of Chapter VIII of the Motor Vehicles Act, 1939.] IV of 1939.

Payment of additional tax.

7. When any motor vehicle in respect of which a tax has been paid is altered, [9][or proposed to be used] in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or person who is in possession or control of such vehicle shall pay an additional tax of a sum which is equal to the difference between the tax already paid, and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of its being altered [9][or so proposed to be used] and the registering authority shall not grant a fresh [10][tax token] in respect of such vehicle so altered [9][or proposed to be so used] until such amount of tax has been paid.

Liability to pay arrears of tax of persons succeeding to the ownership, possession or control of motor vehicles.

[11][7A. (*1*) If the tax leviable in respect of any motor vehicle remains unpaid by any person liable for the payment thereof and such person before having paid the tax has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who has possession or control of such vehicle shall be liable to pay the said tax to the registering authority.

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[1] This section was inserted by Bom. 46 of 1947, s. 4.
[2] These words were substituted for the words " altered so ", *ibid.*, s. 5 (*i*).
[3] These words were substituted for words " such person ", *ibid.*
[4] These words were inserted, *ibid.*
[5] These words were substituted for the words " registration certificate" by Bom. 3 of 1940, s. 6 (*i*), read with Bom. 40 of 1947, s. 2.
[6] These words were inserted by Bom. 46 of 1947, s. 5 (*i*).
[7] These words were added by Bom. 3 of 1940, s. 6 (*ii*), read with Bom. 40 of 1947.
[8] This sub-section was inserted by Bom. 46 of 1947, s. 5 (*ii*).
[9] These words were inserted, *ibid.*, s. 6.
[10] These words were substituted for the words " certificate of registration or renewed any certificate of registration " by Bom. 3 of 1940, s. 7, read with Bom. 40 of 1947, s. 2.
[11] This section was inserted by Bom. 5 of 1949, s. 2.

(*2*) Nothing contained in this section shall be deemed to affect the liability to pay the said tax of the person who has transferred the ownership or has ceased to be in possession or control of such vehicle.]

[1][**7B.** In the case of a fleet owner, the provisions of sections 3, 5, 5A and 6 shall, so far as may be, apply subject to the following modifications, namely :— **Levy of tax, etc., in case of fleet owner.**

(*1*) In order to determine the amount of tax payable by a fleet owner in any year, before the commencement of such year, the fleet owner shall first make and deliver to the State Transport Officer a preliminary declaration in the prescribed form stating the prescribed particulars in respect of the transport vehicles used or kept for use by him on the road on the last day of February of the year immediately preceding the year for which such declaration is made. Such declaration shall be accompanied by certificate of final assessment of tax, if any, issued by the State Transport Officer for such previous year and such other documents as may be prescribed.

(*2*) On receipt of such preliminary declaration and as soon as may be after the commencement of the year, the State Transport Officer shall, on the basis of such declaration, determine the amount of tax to be paid by such fleet owner provisionally and communicate the same to the fleet owner by issuing a certificate of provisional assessment of tax for the year in such form as may be prescribed.

(*3*) The amount of tax provisionally determined under sub-section (*2*) shall be paid by the fleet owner to the State Transport Officer within fifteen days from the date of receipt of the certificate of the provisional assessment by him.

(*4*) The fleet owner shall then fill up and sign a final declaration in the prescribed form, stating the prescribed particulars in respect of the transport vehicles used or intended to be used by him in the current year and shall deliver within the prescribed time the final declaration so filled in and signed to the State Transport Officer. Such declaration shall be accompanied by the certificate of provisional assessment of tax issued by the State Transport Officer for the year and such other documents as may be prescribed.

(*5*) On receipt of such final declaration, the State Transport Officer shall verify the number of transport vehicles used or kept for use by the fleet owner during the current year, the seating capacity in the case of stage carriages and contract carriages, the registered laden weight in the case of goods vehicles, the unladen weight in the case of other transport vehicles and such other particulars as may be deemed necessary and shall finally determine the amount of tax leviable at the rates fixed under sub-section (*1*) of section 3 on the transport vehicles of such fleet owner and communicate the same to the fleet owner by issuing a certificate of final assessment of tax for the year in such form as may be prescribed.

(*6*) When the amount of tax is finally determined under sub-section (*5*), taking into consideration the amount paid by the fleet owner under sub-section (*3*), the difference that may be due shall be paid by, or refunded to, the fleet owner in such manner and within such time as may be prescribed :

[1] Section 7B was inserted by Bom. 19 of 1955, s. 3.

Provided that the fleet owner shall be entitled to a proportionate reduction in the amount of tax finally leviable in respect of vehicles which are certified by the State Transport Officer as not used for a period of one calendar month or more.

(*7*) Within thirty days of the transfer of ownership of any of his transport vehicles, the fleet owner shall report the transfer to the State Transport Officer.

(*8*) The State Transport Officer may, for the purposes of this section, require the fleet owner to produce before him any transport vehicles or any accounts, registers, records, or other documents or to furnish any information or may examine the vehicles or the accounts, registers, records or other documents and the fleet owner shall comply with any such requirement made of him.]

Power of police officer [and the Motor Vehicles Department officer] to stop a motor vehicle.

8. (*1*) Any police officer [1][or officer of the Motor Vehicles Department] in uniform, not below such rank as may be prescribed by [2][the [3][State] Government] in this behalf, may require the driver of any motor vehicle [4][in any public place] to stop such vehicle and cause it to remain stationary so long as may reasonably be necessary for the purpose of satisfying himself that the amount of the tax due in accordance with the provisions of this Act in respect of such vehicle has been paid.

(*2*) Any person failing to stop a motor vehicle when required to do so by [5][any such officer] under sub-section (*1*) shall, on conviction, be punishable with the same penalty as provided in section 12.

Utilization of the proceeds of the tax.

[7][**9.** (*1*) The State Government shall pay annually to any local board which at the commencement of this Act was levying tolls on vehicles or animals and to any other local authority which at the said date was levying or collecting tolls on motor vehicles and trailers a sum determined by the State Government, after consulting the local board or local authority concerned, as representing the net average annual income of such local board or local authority from such tolls, after deducting the cost of collection, during the three years ending on the 31st March of 1936, plus 10 per centum.

(*2*) The contributions to the local authorities fixed under sub-section (*1*) shall be paid in such instalments and in such manner and on such dates as the State Government, after consulting the local authorities concerned, may determine.

(*3*) If, [8][in any quarter] the proceeds of the tax collected under this Act, after [9][deducting an amount equal to one-fourth of such sum as annual expenses] of collection of the tax as the State Government may determine in this behalf, exceed

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[1] These words were inserted by Bom. 24 of 1953, s. 2 (*1*).
[2] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words "on any public road" by Bom. 3 of 1940, s. 8, read with Bom. 40 of 1947, s. 2.
[5] These words were substituted for the words "a police officer" by Bom. 24 of 1953, s. 2 (*2*).
[6] These words were inserted, *ibid*, s. 2 (*3*).
[7] This section was substituted for the original by Bom. 56 of 1950, s. 2.
[8] These words were substituted for the words "in any year" by Bom. 16 of 1954, s. 3 (*1*).
[9] These words were substituted for the words "deducting such sum as expenses" *ibid*., s. 3 (*2*).

the sum of [1][Rs. 6,64,250] the excess amount shall be entered in and transferred to a separate account called the State Road Fund and shall be expended [2][in the prescribed manner] solely on the construction, improvement and maintenance of new and existing roads including roads vesting in, belonging to, or managed by, any local authority :

Provided that such expenditure shall be a supplement to and not in substitution for any funds which would otherwise be expended on the roads by the State Government or by local authorities.

(*4*) The contributions made under sub-section (*2*) and the excess amount transferred to a separate account under sub-section (*3*) shall be charged on the Consolidated Fund of the State.

Explanation.—'Road' includes the slopes, berms and side drains of a road, all bridges, culverts and causeways built on or across a road and footways.]

10. (*1*) Whoever—

Penalty for possession or control of motor vehicle without payment of tax and for incomplete and untrue declaration.

(*a*) as a registered owner or otherwise has possession or control of any motor vehicle used or kept for use without having paid the amount of the tax or additional tax due in accordance with the provisions of this Act in respect of such vehicle, or

(*b*) delivers a declaration or additional declaration wherein the particulars required by or under this Act to be therein set forth are not fully and truly stated, shall, on conviction, be punishable with fine [3][which shall not be less than a sum equal to the quarterly tax payable in respect of such vehicle and which may extend to a sum equal to the annual tax payable in respect of such vehicle; and in the event of such person having been previously convicted of an offence under this section with fine which shall not be less than a sum equal to the tax payable in respect of such vehicle for two quarters and which may extend to a sum equal to twice the annual tax payable in respect of such vehicle;] and the amount of any tax due shall be recoverable as if it were a fine.

(*2*) It shall be lawful for any person who is accused of an offence under this section to pay as penalty in the prescribed manner and in the prescribed time and to the prescribed officer by way of composition for the offence with which he is accused such sum as may be prescribed. On payment by such person of such sum together with the amount of tax due, if any, such person, if in custody, shall be set at liberty and if any proceedings in any criminal court have been instituted against such person in respect of such offence the composition shall be deemed to amount to an acquittal and no further criminal proceedings shall be taken against such person in respect of such offence.

11. Any tax due under this Act shall be recoverable in the same manner as an arrear of land revenue. **Tax recoverable as arrear of land revenue.**

12. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, on conviction, if no other penalty is elsewhere provided in this Act or the rules for such a contravention, be punishable with fine which may extend to one hundred rupees and in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder with fine which may extend to two hundred rupees. **Other penalties.**

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[1] These letters and figures were substituted for the letters and figures "Rs. 26,57,000" by Bom. 16 of 1954, s. 3 (*3*).

[2] These words were substituted for the words "in such manner as the State Government may determine" by Bom. 16 of 1952, s. 2.

[3] These words were substituted for the words commencing with the words "which may extend to", nd ending with the words "is committed" by Bom. 3 of 1940, s. 9, read with Bom. 40 of 1947, s. 2.

Trial of offences.

13. No court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try an offence punishable under this Act.

Levy of toll on certain bridges.

14. Notwithstanding anything contained in this Act, it shall be lawful—

(*a*) for the [1][2][State] Government] or any local board to levy tolls on [3][vehicles, animals and persons], or

(*b*) for any other local authority to levy tolls on motor vehicles or trailers, under any other law for the time being in force, on any bridge constructed [4][reconstructed or repaired] after the commencement of this Act by the [1][2][State] Government], local board or other local authority, as the case may be:

Provided that the [1][2][State] Government] is satisfied that—

(*a*) the capital cost incurred in the construction, [5][reconstruction or repairs, as the case may be,] of such bridge is not less than five lakhs of rupees and

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words "vehicles and animals" by Bom. 3 of 1940, s. 10 read with Bom. 40 of 1947, s. 2.

[4] These words were inserted by Bom. 9 of 1942, s. 2 (*1*), read with Bom. 40 of 1947.

[5] These words were inserted, *ibid.*, s. 2 (*2*).

(*b*) such bridge is of special service to the public :

Provided further that such toll shall be levied only at such rate and for such period as the [1][[2][State] Government] may, by notification in the [3][*Official Gazette*], declare to be necessary for the recovery of the amount expended upon the construction [4][reconstruction or repairs, as the case may be,] of such bridge or such portion of the said amount as the [1][[2][State] Government] may determine.

Bom. II of 1868.

15. Except as provided in the Bombay Ferries Act, 1868, and in section 14, no toll shall be levied or collected— **Bar to levy tolls on motor vehicles.**

(*a*) on any [5][vehicle, animal or person] by the [1][[3][State] Government] or any local board, or

(*b*) on any motor vehicle or trailor by any other local authority.

16. (*1*) Where, before the commencement of this Act, the collection of tolls leviable at any toll station has been leased to any person under any law for the time being in force, other than the Bombay Ferries Act, 1868, and the lease relates wholly or in part to any period subsequent to the commencement of this Act, the amount which the lessee has contracted to pay to the local authority concerned or to the [1][[2][State] Government] shall be reduced by the amount of the loss suffered by him in consequence of this Act having come into force. **Modification of leases.**

Bom. II of 1868.

(*2*) If the lessee and the local authority are unable to agree as to the amount of such loss or if any other dispute arises between them as to the effect of this Act on the contract of lease, such dispute shall be decided by the Collector of the district, and any such dispute arising between the [1][[2][State] Government] and their lessee shall be decided by the [1][[2][State] Government]. The decision of the Collector or the [1][[2][State] Government], as the case may be, shall be final.

17. No prosecution, suit, or other proceeding shall lie against any person for anything in good faith done or intended to be done under this Act. **Protection for *bona fide* acts.**

18. The [1][[2][State] Government] may, by notification in the [3][*Official Gazette*], exempt either totally or partially any motor vehicle or class of motor vehicles from the payment of the tax. Every notification issued under this section shall be laid [6][before each of the [7][Houses] of the [2][State] Legislature] at the session [8][thereof] next following and shall be liable to be rescinded or modified by a resolution [9][in which both the [7][Houses] concur], and the rescission or modification so made shall, after publication by notification in the [3][*Official Gazette*], be deemed to have come into force. **Exemptions.**

[10][**19.** All motor vehicles designed and used solely for carrying out agricultural operations on farms or farm lands shall be exempt from the payment of the tax. **Exemption of motor vehicles used for agriculture.**

Explanation.—For the purpose of this section the expression "agricultural operation" shall mean tilling, sowing, harvesting, crushing of agricultural produce

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by Bom. 9 of 1942, s. 2(*2*), read with Bom. 40 of 1947.

[5] These words were substituted for the words "vehicle or animal" by Bom. 3 of 1940. s. 11, read with Bom. 40 of 1947, s. 2.

[6] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[7] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.

[8] The word "thereof" was substituted for the words "of the said Council" by the Adaptation of Indian Laws Order in Council.

[9] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid.*

[10] This section was substituted for the original by Bom. 3 of 1940, s. 12, read with Bom. 40 of 1947.

or any other similar operation carried out for the purpose of agriculture but shall not include the transportation of persons or materials for the purpose of agriculture or the transportation of agricultural produce]

Appeal.

[1][**19A.** Any person, who is aggrieved by any order of a registering authority made under this Act, may within the prescribed time and in the prescribed manner, appeal to the prescribed authority.]

Power to make rules.

20. (*1*) The [3][3][State] Government] may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the [3][State] Government may make rules for all or any of the following purposes, namely :—

(*a*) to prescribe the manner in which the tax shall be paid ;

[4][(*aa*) to prescribe the manner of certifying under sub-section (*1A*) of section 3;]

(*b*) to prescribe the form of any [5][token], declaration or certificate, the particulars to be stated therein and the time within which the declaration shall be delivered [6][and the documents which shall accompany the declaration ;]

(*c*) to regulate the manner in which refunds or deductions or exemptions may be claimed ;

[7][(*d*) to prescribe the rank of officer who may exercise power under section 8;]

[8][(*dd*) to specify the manner in which the accumulations in the Fund shall be expended under sub-section (*3*) of section 9 ;]

(*e*) to prescribe the amount of penalty payable under sub-section (*2*) of section 10, the manner in which, the time within which and the officer to whom, such penalty shall be paid ;

(*f*) to provide for the total or partial exemption from liability to payment of the tax of any motor vehicle brought into the Presidency by any person visiting the Presidency or making a temporary stay therein, the time within which the declaration shall be made by any such person, the amount which shall be payable on account of such vehicle and the token which any such vehicle shall carry :

[9][(*g*) the authority to which, the time within which and the manner in which an appeal may be made under section 19A, the fees to be paid in respect of such appeal and the conduct and hearing of such appeal ;]

(*h*) any other matter which may be prescribed.

(*3*) All rules made under this section shall be published in the [10][*Official Gazette*].

(*4*) Rules made under this section shall be laid [11][before each of the [12][Houses] of the [3][State] Legislature] at the session [13][thereof] next following and shall be liable to be modified or rescinded by a resolution [14][in which both the [12][Houses] concur] and the modification or rescission so made shall, after publication by notification in [10][*Official Gazette*] be deemed to have come into force.

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[1] This section was inserted by Bom. 5 of 1949, s. 3.

[2] The words "Provincial Government" were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] Clause (*aa*) was inserted by Bom. 16 of 1954, s. 4.

[5] This word was inserted by Bom. 3 of 1940, s. 13(*i*), read with Bom. 40 of 1947.

[6] This portion was inserted by Bom. 19 of 1955, s. 4.

[7] Clause (*d*) was substituted for the original by Bom. 24 of 1953, s. 3.

[8] Clause (*dd*) was inserted by Bom. 16 of 1952, s. 3(*i*).

[9] Clause (*g*) was substituted for the original, *ibid.*, s. 3(*ii*).

[10] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[11] The words " before each of the Chambers of the Provincial Legislature" were substituted for the words " upon the table of the Bombay Legislative Council", *ibid.*

[12] This word was substituted for the word " Chambers" by the Adaptation of Laws Order, 1950.

[13] The word " thereof " was substituted for the words " of the said Council " by the Adaptation of Indian Laws Order in Council.

[14] The words " in which both the Chambers concur " were substituted for the words " of the said Council ", *ibid.*

Provided that when in the opinion of the [1][[2][State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][[2][State] Government] may, by notification in the [3][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

21. [*Existing certificates deemed to be cancelled unless application for fresh certificate made within certain time and this Act not to affect past liability.*] *Repealed by Bom. 3 of 1940, s. 14, read with Bom. 40 of 1947.*

22. The enactments specified in the second Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof. Amendment of certain enactments.

23. [*Levy of registration fees under Act VIII of 1914 after passing of this Act.*] *Repealed by Bom. 3 of 1940, s. 14, read with Bom. 40 of 1947.*

[4][SCHEDULE I.

(*See* section 3.)

	Maximum annual rate of tax. Rs.
PART I.—Motor vehicles using motor spirit.	
A. Motor vehicles fitted solely with pneumatic tyres—	
I. Motor cycles and tricycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power) not exceeding 8 cwt. in weight, unladen—	
(*a*) Cycles not exceeding 200 lbs. in weight, unladen...	24
(*b*) Cycles exceeding 200 lbs. in weight, unladen ...	32
(*c*) Tricycles	32
(*d*) Cycles or tricycles used for drawing a trailer or sidecar, in addition to above rates ...	5

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] Schedule I was substituted for the original by Bom. 16 of 1952, s. 4. The proviso to section 4 reads as under:—

Bom. XVI of 1952. "Provided, however, if in respect of a motor vehicle, the tax has, before the commencement of the Bombay Motor Vehicles Tax (Amendment) Act, 1952, been paid in advance either for the whole year or for any quarter at the rate in force before such commencement, the registered owner or any person in possession of the said vehicle shall pay in the prescribed manner and on or before such date as the State Government may notify in this behalf an additional tax of a sum which is equal to the difference between the tax already paid and the tax which is payable in respect of the said vehicle for the unexpired period of such year or quarter, as the case may be, at such rate as may be specified under section 3 after such commencement."

	Maximum annual rate of tax. Rs.
II. Motor vehicles not exceeding 5 cwt. in weight unladen adapted and used for invalids	5
III. Motor vehicles (including tricycles) weighing more than 8 cwt. unladen used for the transport or haulage of goods or materials—	
(*a*) Vehicles the registered laden weight of which does not exceed 30 cwt.	300
(*b*) Vehicles the registered laden weight of which exceeds 30 cwt. but does not exceed 60 cwt. ...	480
(*c*) Vehicles the registered laden weight of which exceeds 60 cwt. but does not exceed 90 cwt. ...	720
(*d*) Vehicles the registered laden weight of which exceeds 90 cwt. but does not exceed 120 cwt. ...	960
(*e*) Vehicles the registered laden weight of which exceeds 120 cwt. but does not exceed 150 cwt. ...	1,200
(*f*) Vehicles the registered laden weight of which exceeds 150 cwt.	100 for every 5 cwt. or part thereof.
(*g*) Additional tax payable in respect of such vehicles used for drawing trailers—	
(1) for each trailer the registered laden weight of which does not exceed 40 cwt.	300
(2) for each trailer the registered laden weight of which exceeds 40 cwt.	480

Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer;

Provided further that the rates for motor vehicles registered for use solely within municipal and cantonment limits shall be two-thirds of the aforesaid rates.

IV. Motor vehicles (including tricycles) plying for hire and used for the transport of passengers—	
(*a*) Vehicles licensed to carry in all not more than two passengers	120
(*b*) Vehicles licensed to carry in all more than two but not more than four passengers	240

	Maximum annual rate of tax. Rs.
(*c*) Vehicles licensed to carry more than four passengers	The rate specified in (*b*) above, *plus* Rs. 32 for every passenger in addition to four passengers, which the vehicle is so licensed to carry.
Provided that the rates for motor vehicles registered for use solely within municipal and cantonment limits shall be 2/3rds of the aforesaid rates.	
V. Breakdown vans used for towing disabled vehicles...	200
VI. Motor vehicles other than those liable to tax under the foregoing provisions of the Schedule—	
(*a*) Vehicles not exceeding 15 cwt. in weight, unladen	60
(*b*) Vehicles exceeding 15 cwt. but not exceeding 30 cwt. in weight, unladen	90
(*c*) Vehicles exceeding 30 cwt. but not exceeding 45 cwt. in weight, unladen	120
(*d*) Vehicles exceeding 45 cwt. in weight, unladen ...	200
[1][(*e*) Additional tax payable in respect of such vehicles used for drawing trailers :—	
(1) for each trailer not exceeding 1 ton in weight, unladen.	40
(2) for each trailer exceeding 1 ton in weight, unladen.	80
Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.]	
B. Motor vehicles other than those fitted solely with pneumatic tyres.	The rates shown in Class A, *plus* 50 per centum.
C. Motor vehicles visiting the State of Bombay ...	The rates prescribed in the rules.
D. Dealers in or manufacturers of motor vehicles— For a general licence—	
[2][in respect of each motor vehicle	100]
PART II.—Motor vehicles using fuel other than motor spirit.	The rates shown in Part I, *plus* a surcharge of 50 per centum provided that such surcharge shall in no case exceed Rs. 800

[1]Clause (*e*) was inserted by Bom. 24 of 1953, s. 4.
[2] This portion was substituted for original paragraphs (1) and (2) by Bom. 19 of 1955, s. 5.

SCHEDULE II.

(*See* section 22.)

Year.	Number.	Act.	Amendment.
1901	III	The Bombay District Municipal Act.	In clause (*b*) of section 59— (1) in sub-clause (*iii*), after the words "vehicles" the words and brackets "(other than motor vehicles or trailors save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted; (2) In sub-clause (*x-a*), after the words "any other tax" the words and brackets "(other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted.
1923	VI	The Bombay Local Boards Act.	In section 99, after the words "any tax" the words and brackets "(other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted.
1925	XVIII	The Bombay Municipal Boroughs Act.	In section 73— (1) in clause (*iii*), after the words "vehicles" the words and brackets "(other than motor vehicles trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted; (2) in clause (*xiv*), after the words "any other tax" the words and brackets "(other than a toll on Motor Vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted.
1933	VI	The Bombay Village Panchayats Act.	In sub section (2) of section 89, in clause (*vii*) after the words "[1]any other tax" the words and brackets "(other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted.

[1] The word "any" was substituted for the word "and" by Bom. 24 of 1936, s. 2, Schedule.

Pages 2003-2008 have been omitted as the Bombay Cotton Control Act, 1935 (Bom. 35 of 1935), has been repealed by section 15 of the Bombay Cotton Control Act, 1942 (Bom. 30 of 1942).

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